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History *of* New Brunswick

BY

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History of Acadia; History of the War of 1812; Lives of Sir Leonard Tilley and L. A. Wilmot.



ST. JOHN, N. B.
JOHN A. BOWES
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HISTORY OF NEW BRUNSWICK

VOLUME I.

AUTHOR'S NOTE.

The need of a complete History of New Brunswick has long been recognized, and the present work is an attempt to carry out this idea. Thirty years ago I published my first volume, the History of Acadia, which dealt with the story of that part of the Maritime Provinces which was controlled by France up to the Treaty of Paris, 1763. Since that time I have always had in my mind a resolve to publish a history of my native Province, but this was found to be impossible while I was engaged actively in daily journalism. Since the end of the year 1900 I have been relieved of this kind of work, and have devoted my time pretty steadily to the preparation of the volumes which I now present to the public. My aim has been to trace the development of the constitution, and the growth of the laws of New Brunswick from the foundation of the Province down to the present time. I trust that the result will be found satisfactory to those who are interested in the history of our own country.

The materials for this work have been found in the parliamentary papers of New Brunswick, the Journals of both Houses, the Minutes of the Executive Council and other original sources.

JAMES HANNAY.

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HISTORY OF NEW BRUNSWICK.

CHAPTER I.

THE story of the manner in which the eastern coast of North America became known to the people of Europe is one that can never be told because, of the hardy men who first explored these shores, few have left any record of their voyages. Leaving out of the account the voyages of the Norsemen in the eleventh century, which had no effect on the settlement of the new world, the first Europeans to reach the coast of North America were John and Sebastian Cabot, father and son, who conducted an expedition under the patronage of Henry VIII. of England. The chief interest of this voyage arises from the fact that it was made the basis of the claims put forward by England to the ownership of all North America by right of priority of discovery. The first voyage of the Cabots was made in 1497. Their landfall has been the subject of much controversy, Labrador, Newfoundland and Cape Breton each having their advocates, while one learned writer claims that they entered the Gulf of St. Lawrence by the Straits of Cabot and discovered Prince Edward Island. In 1498 Sebastian Cabot made a second voyage to the new world, and traversed a considerable portion of the coast of

North America, but apparently he did not reach any portion of New Brunswick. His track was followed by Gaspar de Cortereal, a Portuguese navigator, in 1500, but these voyages led to nothing substantial except that they showed the way to the fishermen of Europe who soon began to resort to the coast of America.

The Basque and Breton fishermen began to fish on the Banks of Newfoundland and the coast of Cape Breton as early as the year 1504, and the shores of that portion of America soon became familiar to them. There can be no doubt that they entered both the Gulf of St. Lawrence and the Bay of Fundy in the early years of the sixteenth century, long before any voyager who has written an account of his discoveries had sailed on these waters. Of these voyagers it is only necessary for me to mention two in connection with the history of New Brunswick, Jacques Cartier and Samuel de Champlain. Cartier's first voyage to America was made in 1534, under the patronage of Francis I. of France. Cartier had two small vessels of 60 tons burthen, each carrying 61 men, and he entered the Gulf of St. Lawrence through the Straits of Belleisle. Many learned papers have been written for the purpose of describing his track through the Gulf and identifying the places he visited, but it is not necessary to deal with this matter except in general terms. What is certain is that he sighted the coast of New Brunswick somewhere in the vicinity of Point Escuminac, and followed the coast north to Cape Miscou, entering the Bay Chaleur, and exploring it for its entire length. Cartier visited

several of the harbours in the Bay Chaleur and traded with the Indians. It was in the month of July and the weather was excessively hot, hence the name which he gave to the beautiful bay which he was the first to describe, if not to explore, "The Bay of Heat."

Champlain's first voyage to Acadia was made in 1604, just seventy years after that of Jacques Cartier, yet in that long period hardly anything had been done to promote the settlement of the northern parts of America and nothing whatever to people Acadia. Champlain has told the story of his voyages to Acadia, in a work of which many editions have been published.

The leader of the expedition which Champlain conducted to Acadia in 1604 was De Monts, a gentleman attached to the person of Henry IV. of France, and his voyage was undertaken under the patronage of that great King. De Monts and Champlain reached the coast of Acadia in April, and they followed it from Cape La Have to the Bay of Fundy which was entered and thoroughly explored. On the 24th June they reached the mouth of the River St. John, and, as it was the day of St. John the Baptist, Champlain gave it that name, which it has borne ever since. By the Indians it was called the Wigoudi. Champlain's book contains a very good chart of the harbour of St. John, and, it appears from his narrative, that the Indians had a town there, in which they resided a considerable part of the year.

From the St. John Champlain and De Monts went to the St. Croix, and on an island in that river

erected buildings and fortifications with a view to forming a permanent settlement. But the place was ill chosen, for the island was small and it was without wood and water. It seems to have been selected with a view to security from the Indians, but the precaution was needless, because the Indians proved friendly and they always continued so to the French while they retained possession of Acadia. A more dangerous foe to the settlement appeared during the winter in the shape of an epidemic of scurvy, which proved so fatal that out of seventy-nine colonists, thirty-five died, and many of the survivors were only saved by the timely arrival of warmer weather. This led to the abandonment of St. Croix Island and the removal of the colonists to Port Royal. There, on the shores of the Basin, was established a settlement which became the headquarters of French power in Acadia, and which witnessed as many changes and vicissitudes as any other spot of earth in North America.

The whole of Acadia, when first visited by Europeans, was the hunting ground of tribes of Indians who had dwelt there probably for many centuries. The whole of the peninsula of Nova Scotia and the entire coast of New Brunswick was given up to the Micmacs, who are first described by Cartier, who came in contact with them when he explored the Bay of Chaleur in 1534. When De Monts and Champlain first came to Acadia they found the Micmacs living at Port Royal and at the mouth of the St. John river. Their chief, Membertou, was a very aged man who remembered Cartier's visit to

the Bay of Chaleur, and in this way the identity of the Indians seen by this early explorer is established. In Champlain's time another tribe of Indians, called the Etchemins or Malicites, occupied the upper portion of the St. John River. At a later period they extended their camps farther down the river, until finally they reached its mouth, the Micmacs giving way to them and confining themselves to the peninsula of Nova Scotia and that portion of New Brunswick which borders on the Gulf of St. Lawrence and the Bay of Chaleur. These two Indian tribes, although the languages they spoke were entirely different, were always friends and allies, and have never been at war with each other since the first settlement of the country by the French. Living as they did, mainly by hunting and fishing, they never were numerous and Father Biard, a Jesuit missionary, who was engaged in the work of converting them, writing in the year 1612, estimates the number of Micmacs at 2,000 and Malicites at 1,000. The Micmacs now number 3,852 and the Malicites in New Brunswick and Quebec 818. The Passamaquoddy Indians are Malicites. If this estimate is correct, the Micmacs have increased considerably in three hundred years while the Malicites have not declined in numbers. Indeed their mode of living made it impossible that they should ever have been numerous, so that their legends of being at one time great and powerful may be dismissed as unworthy of belief. The conversion of the Indians to the Christian religion was one of the avowed objects of the men who undertook to found colonies in Acadia and the

missionary usually accompanied the trader, and indeed sometimes preceded him. In 1611 two Jesuit fathers, Biard and Masse, came to Acadia to devote themselves to missionary work, and Masse spent some time among the Indians at the mouth of the St. John River, learning the Indian language and endeavouring to teach these untamed savages the doctrines of Christianity. This was the beginning of a work which was continued by the French missionaries for a century and a half with great zeal and energy, but apparently without producing much effect on the Indian's nature. The savages became Christians after a fashion, but this did not prevent them from continuing the same cruel practices, in war and peace, that had prevailed among their forefathers. Cowardice and treachery were always the leading features of the Indian character in the early days of Acadia and as there is no scope in modern days for the exercise of these qualities, shiftlessness and laziness have taken their places. Hence three hundred years of Christian teaching and civilizing influences have hardly raised the Indian a single step above the condition he was in when first visited by white men.

The colony which DeMonts and Champlain first settled at Port Royal in 1605, had a sore struggle for existence. The Charter of DeMonts gave him jurisdiction over the territory of Acadia between the 40th and 46th degrees of latitude and the exclusive right to trade between the 40th degree of latitude and Cape de Raze. But these privileges did not yield him much profit. His monopoly of trade was revoked three years after it had been granted and

Poutrincourt, a gentleman of Picardy, who had been with DeMonts in his first voyage to Acadia, undertook to continue the colony at Port Royal. He obtained a grant of Port Royal from the King of France and he seems also to have claimed both the trade and the shore fishery of Acadia, for Father Biard relates that, in 1611, his son Biencourt broke up a fishing establishment which Pontgrave had erected on an island on the St. John River named Emeninec. This statement is interesting as showing that the splendid fisheries of that great river had thus early attracted attention. The Port Royal colony was broken up by Argal, an adventurer from Virginia, in 1613, and Biencourt, who was at the head of it, with a few followers, had to take refuge in the forest. For the next twenty years Port Royal disappears from history.

The English laid claim to Acadia on the ground of Cabot's discovery and in 1612 James I. gave Sir William Alexander, a Scotch gentleman, a grant in North America which embraced the whole of the provinces of New Brunswick and Nova Scotia. The territory thus granted was to be known by the name of Nova Scotia, and by that name the whole of that territory continued to be described by the English until the year 1784, when New Brunswick was made a separate province, and the name of Nova Scotia was confined to the peninsula. Sir William Alexander was ambitious to establish a colony in Nova Scotia and in 1628 he settled a number of Scotch colonists at Port Royal in the ruined fort originally built by Champlain. But this colony was abandoned four

years later when Acadia was restored to France under the terms of the Treaty of Suza. The country was placed under the control of the Company of New France, a powerful association under the patronage of Cardinal Richelieu, and new settlements were formed at La Have and Port Royal. The colonists then brought to Acadia by the Commander Isaac de Razilly, became the ancestors of the Acadian people of today.

In the meantime the missionary and the trader were at work in the territory now known as New Brunswick. In 1619 two associations of merchants were formed in France to develop the resources of Acadia. One of these companies engaged in the shore fishery and the other in the fur trade. The fishing company had its establishment at Miscou, while the fur traders had their post at the River St. John. To provide for the religious wants of these fishermen and traders, and to aid in the conversion of the Indians, three Recollet Missionaries were sent out from France. A melancholy interest attaches to this mission from the fact that one of the Recollets, Father Bernardian, in 1623 died of hunger and fatigue while travelling through the woods from Miscou and Nepisiquit to the River St. John, where the missionaries had their headquarters. Father Le Clerg states that in 1620, the Recollets had a mission station at Nepisiquit. All these missions appear to have been abandoned during the war between France and England which began in 1627, because the fishing and trading establishments were then broken up, but they were renewed soon

after the peace by the Jesuits. Two fathers of this great order were sent to Miscou in 1634, to minister to the spiritual wants of twenty-three Frenchmen who were living there and engaged in the fisheries. The place proved very unhealthy; most of the Frenchmen and one of the Jesuits died and the other had to return to France. This mission, however, was continued by other Jesuit fathers and in 1644 a branch was established at Nepisiquit.

In 1635 St. John, which for centuries had been the residence of savages, became the home of the most remarkable man who appears in Acadian history, Charles De La Tour. This person came to Acadia with his father, Claude De St. Estienne Seigneur De La Tour in 1609, when a mere boy. The La Tours were people of birth and property in France who had been ruined by the civil wars which afflicted that country prior to the reign of Henry IV. The elder La Tour was a Huguenot, but his son seems to have been in his latter years reconciled to the Church of Rome. He was a member of the Port Royal Colony when it was broken up by Argal in 1613 and he shared in the fortunes of Biencourt and became his lieutenant and friend. When the latter retired from Acadia he left La Tour in possession of his property there and free to carve out his own fortunes. He lived for several years in a fort near Cape Sable, but, in 1635, on receiving a grant of the territory at the mouth of the River St. John, he removed to the new fort which he had erected there, a stronghold which was destined to become, in future years, the scene of heroic valor and of frightful cruelty.

La Tour was one of the lieutenants of De Razilly, and, when the latter died, he continued to exercise authority over a portion of Acadia under a commission which he had received from Louis XIII. in 1613. But he had a rival and enemy in Charles de Menou, Sieur d'Aulnay Charnisay, who also sought to compass his ruin. D'Aulnay had been brought to Acadia by De Razilly, and served under him and when De Razilly died, D'Aulnay took possession of his property under an arrangement he made with the deceased Commander's brother and assumed the state and functions of a Royal governor. He built a new fort at Port Royal and proceeded to strengthen himself on all sides with a view to becoming the sole power in Acadia. He had a very strong motive for this in the fact that La Tour had the control of the St. John River and its tributaries, beyond all comparison the best hunting ground in Acadia, although the territory through which the St. John flowed was nominally under D'Aulnay's jurisdiction. D'Aulnay used his influence at the French Court to injure La Tour, but at first without much success. In 1638 a royal letter was addressed to both La Tour and D'Aulnay defining the limits of their jurisdictions as governors of Acadia and requiring them to preserve a good understanding with each other. D'Aulnay was given authority over all the territory of Acadia north of the Bay of Fundy, while La Tour had similar jurisdiction over all the territory south of it. But as La Tour's fort and settlement at St. John was within D'Aulnay's jurisdiction, and the latter's settlements at La Have and Port Royal were within La Tour's jurisdiction,

these places were excepted, and were to continue to remain under the control of their owners. This, it must be confessed, was an arrangement well calculated to breed disputes between the rival Seigneurs.

D'Aulnay was not discouraged by the failure of his first attempt and he continued to use the influence of his powerful friends at the French Court to destroy his rival. The character of La Tour was painted by them in the darkest of colors and his wife was denounced as a Huguenot, who was leading her husband into rebellious courses. The result of these representations was that a royal order was issued in February 1641, commanding La Tour to embark and come to France immediately, and, if he failed to obey, D'Aulnay was ordered to seize his person and his forts and to make an inventory of his effects. La Tour set this order at defiance and D'Aulnay went to France to obtain the assistance necessary to carry it out. La Tour in the meantime sent to his friends at Rochelle for assistance in the struggle which he knew to be near.

Early in the spring of 1643 D'Aulnay with two ships and a galliot and four small vessels, manned by five hundred men attacked Fort La Tour and, being unable to carry it by assault, proceeded to blockade it. This blockade had lasted several weeks and supplies were running low when the Clement, a ship from Rochelle, appeared on the coast. She had been sent out by La Tour's friends in France and, in addition to abundance of ammunition and supplies, brought a timely reinforcement of 140

men. Fortunately her presence was not discovered by D'Aulnay's fleet, and La Tour and his wife succeeded in boarding her in the night and set sail for Boston, where they hoped to obtain assistance. The authorities of Boston refused to grant La Tour any help officially, but they permitted him to hire ships and men to enable him to return to his fort in safety. La Tour hired four vessels in Boston with fifty two men and thirty-eight pieces of cannon, and enlisted ninety-two soldiers. When La Tour's ships made their appearance off Partridge Island D'Aulnay's blockading fleet promptly hoisted sail and stood for Port Royal. La Tour and his allies followed and attacked them and inflicted considerable loss on the enemy.

After this victory Lady La Tour went to France to obtain more help against D'Aulnay, who was more determined than ever to bring about her husband's ruin. D'Aulnay went to France also and while there heard of the arrival of Lady La Tour. He procured an order for her arrest, but she was warned in time and escaped to England. She returned to Fort La Tour in the summer of 1644. In the following February, while La Tour was absent, D'Aulnay attacked Fort La Tour with an armed ship, but Lady La Tour inspired the garrison with such courage that he was beaten off with heavy loss. His vessel was so much shattered by the cannon of the fort that, to prevent her from sinking, he had to run her ashore below Sand Point. Twenty of his men were killed and thirteen wounded. Two months later D'Aulnay made another attempt on Fort La Tour with a much larger force and

succeeded in capturing it. He hanged all the garrison except one man, who was pardoned on becoming executioner for the others, and Lady La Tour was treated with so much cruelty and indignity that she died three weeks after the surrender of the fort, leaving a little child to the mercy of her conqueror. The ruin of La Tour was thus completed and he was compelled to take refuge in Boston and afterwards in Quebec, while his rival D'Aulnay occupied his possessions and enjoyed the large and profitable trade which belonged to them.

CHAPTER II.

D'AULNAY destroyed La Tour's fort at St. John and built a new one on the opposite side of the harbor. His prinpal residence was at Port Royal, but his trade at St. John was large and profitable and enabled him to maintain a large force to defend his possessions. D'Aulnay proved an exacting and disagreeable neighbour to the English settlers of Massachusetts Bay. He was disposed to demand satisfaction from them for the assistance they had given to La Tour, but contented himself by accepting a small present and binding them down to a solemn treaty to give no countenance to his enemy La Tour. There were excellent reasons for this, for there were men in Boston who were financially interested in La Tour and were likely to be ruined if La Tour remained an exile from Acadia. He owed Sergeant Major Gibbons of Boston upwards of £2,000, and, to secure this sum, La Tour gave Gibbons a mortgage on his fort at St. John. As the fort was then in possession of D'Aulnay the security did not appear to be of much value, but the sum secured was not payable until February 1652, and by that time La Tour was again in possession of his fort and master of Acadia. This was brought about by a series of events which have all the flavor of a romance.

D'Aulnay was not liked by the people of Boston, and in Acadia, where he was still better known, he was liked still less. Nicholas Denys, a contemporary, who published a book on Acadia in 1672, describes him as arbitrary and tyrannical and opposed to the settlement of the country. He removed all the people from La Have and compelled them to reside at Port Royal under the guns of his fort, keeping them in the condition of slaves. It paid him to do this, because they were able to provide him with food for his garrison, which otherwise he would have been compelled to import from France, but beyond this he did not go. His business was to trade with the Indians and the establishment of settlements was always a menace to this trade, for there was a disposition on the part of the settlers to engage in it on their own account. D'Aulnay, however, did not live long to enjoy his good fortune, for, during the summer of 1650, he was drowned in the river at Port Royal by the upsetting of a canoe. The Indians saw the accident and went to his assistance, and the servant who was with him was actually saved. But one of the Indians, remembering that D'Aulnay had beaten him a few days before, took care to drown him before he pulled him ashore. His affairs were in a state of great confusion. He owed an enormous sum to one Emmanuel le Borgne, a resident of France, from whom he had obtained supplies and money to enable him to carry on wars against La Tour. This indebtedness made Le Borgne a claimant for the possession of Acadia and introduced a new element of strife into that country. D'Aulnay's influence in France did not survive

his death. Early in the year 1651 La Tour obtained a new commission as governor of Acadia, which also confirmed him in his territorial rights in that country. Two years later he married D'Aulnay's widow, who seems to have thought this the only certain way of protecting her large interests in Acadia. By this second marriage La Tour had five children, some of the descendants of whom still reside in Acadia. Prior to his marriage he had again taken up his residence at St. John, and the fort there was, by the marriage settlement, given to his wife for her life time. But La Tour was not destined to remain long in undisturbed possession of this fort. D'Aulnay's creditor, Le Borgne, in 1653 came to Acadia to take possession of the deceased governor's property under judgments of the French Courts. He seized Port Royal, and grown bold by his achievement, he seems to have thought that he might as well take possession of all Acadia and drive La Tour and Denys out of the country. Denys had come to Acadia in 1632 with Isaac de Razilly, and was now the owner of a fishery at La Have, and was engaged in establishing a colony at St. Peter's in the island of Cape Breton. Le Borgne put a stop to the operations of Denys at St. Peters's and burnt his establishment at La Have, taking the owner prisoner. La Tour was to have been the next victim, but before his plans could be carried out an English force appeared and seized both Port Royal and Fort La Tour. This was a squadron of four warships that had been fitted out by Oliver Cromwell against the Dutch of New York. When it reached Boston peace had been

concluded with the Dutch, but the Massachusetts people thought the occasion a favorable one to drive the French out of Acadia. Accordingly a land force of 500 men, under the command of Major Robert Sedgewick, was raised in great haste and embarked on board the warships. Neither Port Royal nor Fort La Tour was in a position to resist such a force, and so the whole of Acadia passed into the hands of the English and was not restored to France until after the treaty of Breda in 1667.

This last stroke of fortune, which deprived LaTour both of his fort and his territory, would have been ruinous to a less resourceful man. So far from having that effect, it gave him twelve years of peace and comparative prosperity prior to his death in 1666. La Tour's father had been connected with Sir William Alexander's scheme of colonization; both father and son had been made baronets of Nova Scotia at his instance, and both had received from him an extensive grant of territory in Acadia, embracing some 4,500 square miles. La Tour was therefore able to approach Cromwell not only as a Scotch baronet, but as a land owner under a title derived from an English King. The result of his efforts was that in July, 1656, he received, in conjunction with Sir Thomas Temple and William Crowne, a grant of the greater part of Acadia, extending from what is now Lunenburg in Nova Scotia to the River St. George in Maine, including the whole coast of the Bay of Fundy on both sides and an hundred leagues inland. Temple was appointed Governor of this vast domain, and

La Tour soon afterwards sold him his interests in Acadia and retired into private life.

Temple rebuilt the fort at the mouth of the St. John and erected a fortified trading post at Jemseg. Unfortunately for him Cromwell died and the restoration of Charles II. followed soon afterwards. Temple's title to Acadia was attacked, and for a time he was deprived of his governorship. In the end he was successful in having his title to Acadia confirmed and his governorship restored, but he did not enjoy his possessions long, for by the Treaty of Breda, England agreed to restore Acadia to France. This was finally done in July, 1670, the Chevalier Grand Fontaine taking possession of the country on behalf of the King of France.

The English occupation of Acadia between 1654 and 1670 did not extend to that portion of it which bordered on the Gulf of St. Lawrence and Bay Chaleur. Denys, who had been driven from St. Peter's by Le Borgne, obtained a commission from the King of France as governor of that region and took up his abode at Nepisiquit, on a point of land on the north side of Bathurst harbour. He had also an establishment on the Miramichi and a fishing station at Miscou, and employed a large number of men in the fisheries. Denys returned to France in 1670, leaving his son Richard in possession of his property. The missions on the North Shore were also continued during the English occupation.

Grand Fontaine, the new French Governor of Acadia, established himself at Penobscot in 1670. The King was very anxious that Acadia should have

a population, and, in 1671, sent out sixty persons from France, five of whom were females. During the same year a census of Acadia was taken by the King's orders. The result was not cheering, for the entire population of the colony numbered only 342 persons, exclusive of soldiers. Of these 325 lived at Port Royal, seven at Pubnico, seven at Cape Negro and three at River A Rocheloes. There is no mention of any person residing in that portion of Acadia which is now New Brunswick, but as the census was taken by Laurent Molin, a Grey friar, who also was performing the duties of Cure at Port Royal, the omission of any settlers residing on the Miramichi or at Nepisiquit may be accounted for. There is little doubt that Richard Denys was residing either at Miramichi or Nepisiquit when the census of 1671 was taken. Another Frenchman, Philip Enaud, was living at Nepisiquit in 1686, but it is probable that he was not there in 1671.

Grand Fontaine ceased to be governor of Acadia in May, 1673, but his period of administration was distinguished by the formation of a settlement which was destined to grow to great importance and wealth, the first permanent settlement in northern Acadia. This was the Chignecto colony which was established by Jacob Bourgeois, a resident of Port Royal. The extensive marsh lands of Chignecto which now sustain a large and prosperous population had been known for almost three-quarters of a century, but it was not until the year 1672 that they attracted colonists. The Chignecto colony grew rapidly, and in the course of years quite over-shadowed the mother colony at Port Royal.

Chambly, who had been an officer in the Carignan Salieres regiment, succeeded Grand Fontaine as Governor of Acadia, but the force under his command was so small that in 1674 a Dutch corsair, named Arensan, captured his fort at Penobscot and also the fort at St. John which was under the command of his lieutenant, de Marson. The people of Massachusetts had viewed the surrender of Acadia to France with much indignation, but they were still less pleased to see that country in the possession of the Dutch. Accordingly they sent a force under Captain Hampton to dispossess the latter. This was accomplished and the Dutch driven away, an act which produced remonstrances from the Dutch government. The latter, however, took nothing by their complaints and the French resumed possession of their fort at St. John. That at Penobscot was abandoned and never again occupied by the French government. It soon afterwards passed into the hands of the Baron de St. Castin, a retired officer of the Carignan Salieres regiment, who married a daughter of the Chief of the Penobscot Indians and became the virtual ruler of that tribe. His presence at Penobscot had a much greater effect in advancing the interests of France among the Indians than the maintainance of a fort there by the government would have had, and it had the additional advantage of costing the French King nothing.

De Marson, who was the commander of the French fort at St. John, acted as governor in the absence of Chambly and was appointed governor of Acadia in 1678, but died the same year. He was the father of Louise Elizabeth de Joibert, who became the wife

of the Marquis de Vaudreuil, who was governor of of Canada for twenty years, and the mother of that Marquis de Vaudreuil who was the last French governor of Canada. This lady was born at Fort St. John in Acadia.

The period beginning with the governorship of Grand Fontaine was remarkable for the number of grants of territory in Acadia that were given to men who desired to become seigniors. The Seigneurial system was in operation in Canada and it was thought that it was equally suited to Acadia. But, owing to many causes, it never took root here and the most flourishing settlements were those in which it did not exist. Between 1672 and 1690 a large part of the territory bordering on the St. John River was granted to seigniors, but the result was very disappointing. The census of 1686 showed sixteen persons residing on the St. John River in that year; in 1693 the number was twenty, in 1695 it had risen to fifty-nine. The census of three years later showed a decline. Even these inhabitants, few as they were, did not live by agriculture but by trading with the Indians. The difference between the seigneurial settlements on the St. John and a purely agricultural settlement is illustrated by the case of Chignecto, which in 1686 had 127 inhabitants although it had only been founded fourteen years before, or eight times as many as all the seigniories on the St. John River.

The Chignecto settlement was impeded by the claims of Michael le Neuf, Sieur de la Valliere, who in 1676 obtained a grant of a large territory at Chignecto which included the settlement there. This

man was for several years commandant in Acadia and he turned his opportunities to his own advantage by engaging in illicit trade. In 1686 he had quite an establishment at Chignecto, keeping five servants and having sixty acres of land under cultivation. He had eight children, but his wife, who was a daughter of Nicholas Denys, did not live with him. Among La Valliere's possessions were seventy muskets. We may infer from this that the seignior of Chignecto was something more than a farmer and trader. He was in fact a smuggler and, unless greatly belied, something of a pirate. La Valliere obtained another large Seigniory in 1700 at Shepody, which embraced lands that had been occupied by settlers from Port Royal and Chignecto two years previously. He had disputes with these settlers whom he would have liked to make his tenants, but an order of the Council of State forbade him to disturb them.

De Marson obtained three seigneurial grants on the St. John River, one at the mouth of the river on the east side, one at Jemseg and the third at Nashwaak. None of these seigniories appears to have been improved and they were forfeited or regranted to others after De Marson's death. His widow, in 1691, thirteen years after his death, received a grant of some fifty square miles of territory on the St. John River which included what is now Gagetown, but she made no effort to settle it and it passed into other hands. In 1672 Martin D'Arpentiginy, Sieur de Martignon, received a grant of territory on the west side of the St. John River at its mouth, of six leagues square. De Martignon was a

son-in-law of La Tour, having married his daughter Jeanne, who was born in 1626, and was therefore probably the child of an Indian wife. De Martignon was residing on his property at St. John in 1686 when the census was taken. He was then 70 years old and as no mention is made of him in the census of 1693, he had probably died before it was taken. Four sons of Mathieu D'Amour, a member of the Governor's Council at Quebec, were living in Acadia at this time. Rene D'Amour, who took the title of Chignacourt, in 1684 received a large grant at Meductic. In the same year Mathieu, whose title was Freneuse, received a grant of the territory on both sides of the St. John River, from Jemseg to the Nashwaak, while at the same time Louis, whose title was de Chauffours, obtained a grant of the Richibucto River and adjacent territory. In 1695 the fourth brother Bernard, Sieur de Plenne, received a grant of the Kennebeccasis River and territory. Rene d'Amour was wholly engaged in trade with the Indians and did nothing to improve his seigniory. Mathieu in 1686 had a residence on his seigniory opposite the mouth of the Oromocto River, and in 1695 there were three houses and twenty-four persons in this seigniory. At this time Louis D'Amour was living at Jemseg, engaged in trade and cultivating the soil to some extent. He had come into possession of the territory formerly granted to De Marson. The population of the Jemseg seigniory in 1695 was eleven persons of whom eight were servants. According to the same census fourteen persons were then living at Nashwaak in addition to the garrison at Fort St. Joseph.

La Valliere held the command in Acadia and was virtually its governor from the death of De Marson in the summer of 1678 to the appointment of Perrot in 1684. His term of office was mainly remarkable for the quarrels between him and Bergier, who was at the head of a company which was carrying on the shore fisheries on the St. John River and at other points in Acadia. La Valliere not only engaged in trade with the English of Boston but gave them licenses to fish, thereby interfering with Bergier's licenses. Perrot, who succeeded him, had been governor of Montreal and his reputation was very bad. He looked upon Acadia as a field for the exercise of his peculiar talents as a trader and smuggler and not with any view to the interests of its people or of the King. In 1687 he was replaced by De Menneval, a soldier, one of the sons of Charles le Moyne, Seigneur of Longueil. This officer established himself at Port Royal and began the erection of a new fort there, but in May, 1690, while it was still unfinished, an English expedition from Boston, under the command of Sir Wm. Phips, appeared in the Basin and compelled him to surrender. De Menneval and the seventy soldiers whom he commanded were sent to France and Acadia once more passed into the hands of the English. Phips was too intent on the capture of Quebec which he attempted that year to trouble himself much about Acadia, so he contented himself with causing the inhabitants of Port Royal to take the oath of allegiance to the King of England, and organized a sort of provisional government of which Chevalier, a sergeant of the

garrison, was made president, with a council of six inhabitants. At this time there was no military force on the St. John, all the forts there having been abandoned after the death of De Marson in 1678. Villebon, a brother of Menneval, had been sent from France to Acadia with ten recruits, in a vessel that carried supplies to the colony, and he arrived at Port Royal a few days after the English had left it. As Villebon had no force with him sufficient to garrison Port Royal he decided to take refuge in the St. John River, which could not be so easily reached by an enemy. After a conference with the Indians at Jemseg he went to Quebec and from thence to France, from which he returned to Acadia in September, 1691, with a commission as governor of the colony. He established himself in the fort at Jemseg with fifty men and proceeded to organize the Indians into war parties to ravage and destroy the English settlements. This cruel warfare continued for many years, the leader in most of the Indian expeditions against the new English settlements being an officer named Villieu, who was a son-in-law of La Valliere. The English were not slow to retaliate and humanity blushes at the recital of the atrocities that were committed. The moving cause of all these cruel deeds was the governor at Quebec, who thus sought to check the progress of the English settlements. But this policy proved to be most unwise in the end, for it hardened the determination of the colonies to destroy French power in North America.

During the summer of 1692 Villebon removed his garrison from Jemseg to Nashwaak and there on a

point of land, at the junction of that river with the St. John, began the erection of Fort St. Joseph, a palisaded work of four bastions. This fort had a great advantage over the fort at Jemseg in being much nearer the principal Indian settlement which was at Meductic. The Indians were brought still nearer by one of those periodical visitations of disease, which have done so much to destroy the red men. In 1694 a mysterious sickness broke out among the Indians on the St. John River, which carried off upwards of one hundred and twenty persons, including the chief and many of their best warriors, and its ravages were so great that Meductic was abandoned for several years. Many of the Indians removed to Aucpaque, a place some seven miles above Fort St. Joseph, while others took up their residence farther up the river. The Indians of the St. John were always in alliance with the Micmacs, who lived on the other side of the Bay of Fundy and on the Gulf of St. Laurence, and the Abenaquis tribes who dwelt in the territory to the westward, and all three tribes were usually represented in their war parties. Treachery and cruelty were the leading features of the Indian character, yet there is little doubt that they would have been willing to remain at peace with the English if the French had not been bent on provoking war.

The only warlike deed in which the Indians at that time took part which was worthy of commendation, was the capture of Fort William Henry at Pemaquid. This was a stone fort which had been built by the government of Massachusetts

at a cost of £20,000. It was attacked in the summer of 1696 by a force of 100 French and 400 Indians, aided by two French warships, and captured after a brief resistance. The fort was destroyed, but Villieu, who took part in the siege, on his return, was captured by an English warship. At this time also Capt. Church, who had attained some celebrity as an Indian fighter, was sent from Massachusetts with 500 men in sloops and whale boats to attack the French in Acadia. Church, instead of seeking Villebon in his stronghold at Nashwaak, made a raid on the peaceful settlement at Chignecto and destroyed it, as far as he was able. He and his men remained there nine days, during which they robbed the poor people of everything moveable, killed most of their cattle and burnt down all their buildings, including the chapel. Church then made his way to St. John where he landed and attacked a small party of observation, which Villebon had stationed at the mouth of the river. Chevalier, an ensign who commanded this party, was killed and two of his men made prisoners. Church was so well contented with what he had accomplished, that he gave up the idea of going up the St. John River. He was actually as far as the St. Croix on his return when he met Col. Hawthorne with a reinforcement of 200 men, who insisted on an attempt being made on Villebon's fort. Col. Hawthorne took command and the expedition set sail once more for St. John. Fortunately for Villebon he had due warning of his danger from his brother Neuvillette, who had been sent to the mouth of the river to reconnoitre and

Villebon wrote to Father Simon, the Recollet who lived among the Indians, asking him to bring the warriors of his mission to the assistance of the fort, and, on the 14th of October, Father Simon arrived with thirty-six of them from Aucpaque. The French settlers on the river were also called, including Clignacourt and Freneuse, Baptiste and nine others, who lived below Nashwaak. On the morning of the 18th, the English made their appearance and landed below the fort on the opposite side of the Nashwaak river. In a few hours they had intrenched themselves and had established a battery of two field guns, which began firing on the fort. This fire was vigorously returned, and the besiegers were exposed to a heavy fire of musketry from the fort and from the Indians who lined the bank of the river. On the following day the cannon fire was continued and one of the English guns dismounted and the other silenced. That evening after lighting many fires to conceal their design the English decamped and next morning the French found their camp deserted. The French had one soldier killed and two wounded in this affair. Villebon states the loss of the English to have been eight killed and seventeen wounded, but there is no English authority for this statement. The siege appears to have been very badly managed, for only a small part of the English force was employed, and it was absurd to attempt to take a fort maintaining so many guns as Fort St. Joseph, by firing at it with two small field pieces from the opposite side of the Nashwaak River. The English on their way down the river

burnt the buildings of the Seigniory of Freneuse, opposite the Oromocto, but those at Jemseg were not touched. Two inhabitants of Chignecto, Germain Bourgeois and Pierre Arsenault, who had been taken prisoners by Church, were left by the English near the mouth of that river. Freneuse died from the exposure he was subjected to during the siege, and this was perhaps the most important result of it, for his widow, who was a sort of Acadian Cleopatra, shook the very foundations of the state for some years by her amours, and is also believed to have been the moving cause of the attack made on the English at Annapolis and the heavy loss suffered by them at Bloody Creek in 1711.

The manner in which the settlers on the lower St. John were exposed to English attacks, no doubt was the means of showing the unsuitableness of the fort at Nashwaak as the headquarters of Acadia. Accordingly measures were taken to restore the old fort at the mouth of the river, and in the autumn of 1698 it was occupied by Villebon and his garrison and the Nashwaak fort abandoned. Prior to that, a treaty of peace had been made at Ryswick between France and England, and this also brought the Indian raids on New England to an end for, being no longer openly assisted by the French, they were forced to make peace in January, 1699.



CHAPTER III.

VILLEBON, the governor of Acadia, died at Fort St. John in the summer of 1700, leaving Villieu in command. M. de Fontenue, an engineer officer, was sent out from France to report as to the condition of the fortifications in Acadia and, acting on his advice, it was decided to abandon all the forts on the St. John River. The reasons he put forward in justification of this extraordinary decision were that the frequent inundations prevented permanent settlements being made; that the mouth of the St. John River was difficult to enter in consequence of the winds and tides; and that the harbour was so small that three ships could not anchor in it without inconvenience. It is not surprising that things did not go well in Acadia, when the King had such servants as Fontenue and listened to their advice. The best portion of Acadia, for trade and for agriculture, was practically abandoned on the word of a man whose report was a tissue of falsehoods. Tens of thousands of prosperous settlers now reside on the banks of the St. John untroubled by its inundations, and the harbour, which he maligned, has many a time accommodated more than an hundred ships and is now the Winter Port of the great Dominion.

Brouillon, who had been governor of Placentia, was appointed to succeed Villebon as governor of

Acadia. He arrived at St. John in the latter part of June, 1701, where he said he found the fort "in good condition, but of little use for the glory of the King or the preservation of the country." He describes the fort as "extremely small, and commanded, on one side, by an island, at the distance of a pistol shot, and on the other, by a height which commanded it entirely, at a distance of only one hundred odd fathoms." He also said there was no drinking water in the fort. All these reasons, he said, had induced him to abandon it. He caused all the fortifications to be razed, demolished the houses, and removed all the guns and ammunition. These, with the officers and men of the garrison, were embarked on the ship Gironde and carried to Port Royal, where a new fort was in course of construction. Port Royal continued to be the residence of the governor of Acadia during the few remaining years that the French held possession of that country.

The peace made, in 1697, between France and England, proved to be nothing more than a truce. In May, 1702, war was declared by Queen Anne and her German and Dutch allies against France and Spain. This war added Blenheim, Ramillies, Audenarde and Malplaquet to the long roll of British victories, and it also resulted in the loss of Acadia to France. In the spring of 1704 the people of Massachusetts sent an expedition against Acadia under the command of Col. Benjamin Church. It consisted of three men-of-war, fourteen transports and thirty-six whaleboats, having 550 men on board. Church received orders from

Governor Dudley, to burn and destroy the enemy's houses, break the dams of their cereal grounds, make what spoils he could, and bring away prisoners. This kind of war suited Church much better than attacking fortifications. At Penobscot he killed and captured several French and Indians, among the captives being a daughter of St. Castin, and her children. At Passamaquoddy he took some French settlers prisoners and killed others who had made no resistance. He did not venture to attack Port Royal, but he plundered the settlement at Mines, and cut the dykes and destroyed and wasted Chignecto, burning twenty houses, and killing one hundred and twenty head of horned cattle. That was the second time that Church had ravaged Chignecto, and it is a remarkable proof of the vitality of that settlement, that its population increased from 127 in 1686 to 271 in 1707, notwithstanding the fact that it was twice laid waste by Church in that brief period.

The withdrawal of the garrison, from the forts on the St. John River, left the settlements on that river without any protection. The principal settlements at that time were Freneuse and Jemseg, but there is no census of Acadia that gives the population of the St. John between the time it was abandoned by the garrisons and the capture of Port Royal. In 1695 there were ten families on the river numbering 49 persons. Of these, 11 resided at Jemseg and 24 at Freneuse. At Jemseg there were 95 acres of land under cultivation, including 30 in pasture, while the cultivated acreage at Freneuse was 84 including 40 in pasture. The live stock at Jemseg consisted

of 22 head of horned cattle, 50 swine and 150 poultry. At Freneuse there were ten head of horned cattle, 47 swine and 122 poultry. The crop at Jemseg was 80 bushels of wheat, 30 of corn, 18 of oats and 100 of peas. At Freneuse the crop was 50 bushels of wheat, 180 of corn, 12 of oats and 48 of peas. The census of 1698 gives the population of Jemseg as only five, while that of Freneuse had risen to 36. There are no statistics of the live stock or of the crops produced in that year. But we know that in 1696 Mathieu d'Amours leased his seigniory of Freneuse to Michael Chartier and soon afterwards died. Louis D'Amours devoted himself mainly to trade and he had the misfortune to be taken prisoner by the English in 1703 and was confined in Boston for two years, soon after which he died. Under these circumstances the seigniories of Freneuse and Jemseg were likely to be neglected, even before the French were forced to give up Port Royal. After that event and the transfer of all Acadia to England, the French inhabitants of the St. John River were at the mercy of the English, and, if they were free from disturbance, it was largely because they were remote from the seat of English authority at Annapolis, and France and England were at peace. This peace lasted for thirty years, and in that time, the French settlements in Acadia grew populous and wealthy. This was especially the case with those at Mines and Chignecto where there was abundance of marsh land.

Port Royal was captured by the English in 1710 and the French flag hauled down, never more to be raised in that ancient fortress. It was renamed

Annapolis and received an English garrison, but no English colony was established, and Nova Scotia, as it was named, was as much a French colony thirty years after the Treaty of Utrecht, as it had been before the capture of Port Royal. There were no English in Nova Scotia, with the exception of the garrison and the officials. The Indians occasionally gave trouble, instigated, it is said, by the French authorities at Quebec, but their raids were directed against the English of New England and did not affect Nova Scotia at that time. There were, however, elements of future trouble in the refusal of the Acadians to take the oath of allegiance to the English monarch, and in the claim which was first put forward by Vaudreuil, the Governor of Canada, in 1718, that Acadia, which had been ceded to the English by the Treaty of Utrecht, only comprised the peninsula and did not include the territory now embraced in New Brunswick. This claim was utterly absurd and untenable, for only twenty years before, Governor Villebon had been writing to the governor of Massachusets that the western boundary of Acadia was the Kennebec River. Yet the claim was allowed to go unchallenged, and in time it was so far recognized that in 1750 a commission was appointed to decide as to the limits of Acadia. No decision was ever reached, because a renewal of the war resulted in the actual transfer of the continental portion of Acadia, as well as of Canada, to the English.

From the capture of Port Royal in 1710 to the breaking out of the war between France and England in 1744 we have but few and uncertain glimpses of

the state of the settlements on the St. John River. The English at Annapolis appear to have paid very little attention to them until 1732, when Lieutenant Governor Armstrong wrote to the Lords of Trade that there was a lawless and unauthorized French Colony established on the St. John River, and asking what steps he should take with regard to them. In reply he was told to order these people to retire from the province as they were not entitled to the benefits of the Treaty of Utrecht. Armstrong wrote that he could not remove these people without force, and that the use of force would arouse the jealousy of the Indians. Nothing more was done at that time in regard to these settlers. It appears, from a return made in 1733 to the Governor of Canada, that the white inhabitants of the St. John River numbered 111. Of these, 15 families numbering 82 persons, lived in and near the site of the City of Fredericton. Two families, numbering 11 persons, lived at Freneuse, and three families, numbering 18 persons, at the mouth of the river. In 1736 Joseph Bellefontaine and Michael Bergeron, two inhabitants of St. John, visited Annapolis and furnished Armstrong with a list of the inhabitants. This list comprises 15 families, numbering 77 persons. It is to be presumed that this list only relates to the inhabitants residing at the mouth of the river. These people were required to take the oath of allegiance to the English King.

The Chignecto settlement, relieved of the seigneurial claims of La Valliere, continued to grow rapidly. The original settlement founded in 1672,

appears to have been at the Misseguash River, but, as its numbers increased, it extended over a large part of the vast marsh country where thousands of prosperous farmers now reside. There were settlements on both sides of the Misseguash, on the Tantramar and Memramcook, and also on the Petitcodiac and at Shepody. A French census taken in 1731, gives the number of inhabitants of Chignecto as 150 families, numbering 1,200 persons. These people were wealthy in grain and cattle, for they had not been molested since Church's raid in 1704. They lived on British territory, yet they did not consider themselves as British subjects, but as owing allegiance to the King of France. Not that they were by any means very anxious to obey the orders of the French King. The settlers, both of Mines and Chignecto, living remote from the centre of authority, had acquired habits of independence which would never have been tolerated in France. Brouillon, the governor of Acadia, when he visited Mines in 1701 describes the inhabitants as "living like true Republicans, not acknowledging royal or judicial authority." It was not until Bonaventure, his second in command, had paid them another visit, that he could induce them to obey some judgments of Des Goutins, the judge, which they had previously disregarded. They were greatly afraid that the province would be placed under the control of a company, and declared, that rather than submit to such control, they would prefer to be under English rule. The spirit of the people of Chignecto was the same. They were not anxious to obey the orders of any King, French or English.

They only desired to be allowed to do as they pleased and to make money in their own way. Chignecto had become an important centre of trade, for it had communication both with the Gulf of St. Lawrence and the Bay of Fundy, and French goods, landed at Baie Verte, could be sold to the Indians, who lived on the shores of the Bay of Fundy, without the English authorities at Annapolis being able to do anything to stop this illicit trade.

The restrictions which were placed on trade by the French government, by placing the entire commerce of Acadia in the hands of companies, of monopolists, had their natural consequence in producing an abundant crop of smugglers. During the French period, every person in Acadia, from the governor down, was engaged in contraband trade or was accused of it. Trade with the English was forbidden, but it was carried on in spite of laws to the contrary. Every French governor of Acadia, from Grand Fontaine to Subercase, was accused of trading with the English, or encouraging others to do so. In the case of La Valliere and Perrot, it was notorious that their sole business was to disobey the laws which they were sworn to enforce. Smugglers were numerous on the coasts of Acadia, and from smuggling to piracy was but a step, and many of those who were engaged in contraband trade were prepared to become pirates, and, during the latter part of the seventeenth century and the first decade of the eighteenth century, pirates were frequently cruising in Acadian waters, robbing the settlers and plundering peaceful trading vessels. So bold were they that, in 1690, they actually seized one of

the King's transports at Port Royal, which had brought out from France reinforcements and supplies for the garrison.

The first result of the breaking out of the war, was the capture of Canso, by a force from Louisburg under the command of Du Vivier, a great grandson of Charles La Tour. Du Vivier proposed to capture Annapolis but, while he was making preparations at Louisburg, young Belleisle, another grandson of La Tour, gathered 300 Micmac and Malicite Indians and appeared before Annapolis. This attack failed, as did a second one later in the year, which was made by 200 soldiers and 450 Indians, under Du Vivier. These attacks directed the attention of the English authorities to the very weak condition of their defences in Nova Scotia, for, if the attacks on Annapolis had been better managed, that place must have fallen. The people of New England made a stern resolve to destroy Louisburg, the great stronghold of France on the Atlantic, and, in the spring of 1745, they arranged an expedition which captured it, one of the most wonderful achievements in the history of war. The French, stung to madness by this disaster, determined to repair it at all hazards and, in 1746, sent Admiral D'Anville across the Atlantic with a powerful fleet and land force, which was expected to recover Louisburg, capture Annapolis, and destroy Boston. The fleet was to be aided by a force of 600 Canadians under Ramezay, and a large body of Micmacs and Malicites under Marcir and St. Pierre. This promising plan utterly failed. The fleet accomplished nothing, for it was shattered by tempests and the crews perished from

disease. Ramezay appeared before Annapolis in September with 700 Canadians and Indians, but he accomplished nothing and retired to Chignecto. He was resting there in January, 1747, when he heard of the arrival of an English force of 500 men under Col. Noble at Mines. Ramezay formed the bold resolution of attacking them and, after a hard winter march of eighteen days, surprised Noble and his men and killed or captured the whole of them. This was one of the most brilliant achievements of the war and greatly injured British prestige among the Acadians. But it was much more than off-set by the destruction of the French fleet, bound from Rochelle to Quebec, by Admirals Anson and Warren. The operations, from this time until the end of the war, were not important. Ramezay's detachment was withdrawn from Chignecto in the summer of 1747 and the war was brought to a close by the Treaty of Aix-la-Chappelle, which was signed in the autumn of 1748. Under the terms of the treaty Louisburg was restored to France, a fatal measure, which did much to alienate the sympathies of the New England colonies from the mother country.

The peace of Aix-la-Chapelle did not prove to be an enduring one and, even while it lasted, France and England retained a hostile attitude to each other in America. There were disputed questions of boundary to be adjusted, for the French were now disposed to limit Acadia to the southern half of the peninsula, which would have left Mines, as well as Chignecto, a French territory. Gorham, who commanded a company of Rangers was sent to St. John in 1748 to compel the inhabitants to

submit themselves to the authorities at Annapolis. The same steps were taken with regard to Beaubassin and Baie Verte. These measures produced a remonstrance from M. de la Galissoniere, the governor of Canada, who claimed Chignecto and St. John as French territory. It was evident enough that these questions could only be decided by another appeal to arms. In the mean time the preservation of Nova Scotia to England had become a feature of the settled policy of the government, and, in conformity with this idea, Halifax was founded in 1749, by Cornwallis, and the seat of government removed from Annapolis to the shores of Chebucto Bay. The step was taken none too soon, for France was about to fortify herself on the Isthmus of Chignecto and on the St. John River, with a view to holding the continental portion of Acadia. To effect this object Boishebert, a Canadian officer, was sent to St. John with a small detachment, and La Corne, who is described by Jonquiere as "a brave and capable officer," ordered to Chignecto. Two vessels with supplies and ammunition, were also sent from Quebec to the Bay of Fundy. The new governor of Nova Scotia, Cornwallis, speedily heard of these proceedings and, in July, 1749, sent Captain Rous, in the warship Albany, to St. John to order the French away. When Rous arrived in St. John harbour he found the place deserted and the old fort unoccupied. After a time a French schooner arrived which Rous seized, but promised to restore if the master would go up river and bring the French down. Next day Boishebert made his appearance with 30 Frenchmen and 150 Indians,

and with the French flag flying, came to the shore directly opposite to the Albany, within musket shot. Capt. Rous sent Mr. How, who was well acquainted with the Indians, to order the French flag to be struck. After some demur this was done and Boishebert went on board the Albany. He produced letters from la Galissoniere, one of which ordered him to begin a settlement at St. John, while the second countermanded the order with respect to a settlement, but required him to prevent the French from settling at St. John, while How persuaded the Indians to send deputies to Halifax, to renew the Treaty of Peace. This was done, and a new treaty was made in August, which included not only the Indians of St. John and Passamaquoddy, but also those of Chignecto. At this time Cornwallis received a letter from Boishebert disavowing any intention of fortifying or building at St. John, but stating that his orders were not to allow any one to build there, until the right of possession would be settled. Commissioners were at that time appointed to settle the boundaries of Nova Scotia or Acadia and other territorial questions which had arisen between the two crowns. This commission never made any report, for the questions it had to decide were settled by another war.

The Indian Treaty had no other effect but to deceive the English and lull them into a false security. The Indians could not be detached from the French, because their missionaries were as full of zeal for the cause of France as the French officers themselves. The St. John Indians took all the presents the English gave them, and when the

time came for them to show their colors they were found on the side of the French. The Chignecto Indians broke the treaty almost before the ink upon it was dry, while the other Micmacs of the Peninsula continued actively hostile. The new settlement at Halifax was surrounded by treacherous savages who were ready to murder and scalp any settler who ventured beyond the range of the guns of the fort. The principal French agent in stirring up the Indians at that time against the English, was La Loutre, who had been sent to Acadia as a missionary among the Indians several years previously. Although, at first, he professed great friendship for the English, he was concerned in every plot to injure them from the time of his first arrival in Acadia until he was deported from it, a prisoner. His functions as a missionary were entirely overshadowed by his position as a political agent of France, under the orders of the governor of Canada.

It was the policy of La Loutre to induce the Acadians to abandon those portions of Acadia which were admitted to be English and settle them north of the Misseguash. La Corne had been at Shediac during the winter of 1749, and in the spring he removed to Chignecto where he proposed to erect a fort. The news of this design reached Halifax, and Major Lawrence was sent in April with 400 men to put a stop to La Corne's operations. As soon as Lawrence's vessels appeared the Acadians who lived at Beaubassin, a populous village on the south side of the Misseguash, abandoned their dwellings and crossed that river. This was done by La Loutre's

orders, and, as soon as the houses were vacated, the Indians, by La Loutre's orders, set fire to them. One hundred and fifty families were embraced in this forced emigration, which desolated a settlement which had lasted for three-quarters of a century. Lawrence found the French too strong for him, and was forced to re-embark the same day he landed. Cornwallis, in his letter to the Lords of Trade, said that La Corne and La Loutre had 2,500 men with them, including Canadians, French inhabitants and Indians, but this is probably an over-estimate. What is certain is the fact that La Corne had men enough to hold his ground against any English force in Nova Scotia.

At St. John the French were equally bold, although their force was smaller. Boishebert had there 65 Canadians and 200 Indians, and he had begun to rebuild the old fort on the west side of the harbour. A French brigantine from Louisburg, laden with stores, reached him in August in spite of the vigilance of the English cruisers, and when Capt. Cobb, in the York, entered St. John harbour to investigate, he found the brigantine lying at anchor close to the fort. Cobb went ashore under a flag of truce and was detained by Boishebert, who treated Cobb with great insolence, threatened to destroy his vessel and warned him against meddling with the brigantine, and insisted on him quitting the harbour, as he said it belonged to the French King. Cobb was kept prisoner for a short time by Boishebert but finally got away, carrying off with him six of the crew of the brigantine. Boishebert and La Corne were pursuing the same

tactics and they were in a position to assist each other, for they had the command of an interior line of communication by way of the Kennebeccasis, Anagance and Petitcodiac Rivers, with which the English could not interfere. Behind all was a vast wilderness, peopled by savages, into whose depths no Englishman could venture, but which furnished a safe retreat for the French in the last extremity. At this period all the chances seemed to be in favor of the French not only retaining their position in Nova Scotia but improving it.



CHAPTER IV.

GOVERNOR Cornwallis was determined to have a fort on the Isthmus of Chignecto and in August, 1750, sent another force, under Lawrence, to effect that object. The latter had 700 men with him, and the materials for erecting barracks and other buildings. The Indians and some of the French inhabitants opposed his landing, but were driven back with loss. La Corne, who was in command of the French, desired an interview with Lawrence in the middle of the Misseguash River, but was told he was trespassing on British territory and that Lawrence could hold no parley with him. In view of what occurred to How a few weeks later, it was perhaps just as well that Lawrence declined this invitation. He lost no time in establishing himself on the site of the village of Beaubassin and began the erection of a fort which was named Fort Lawrence. It was only a mile and a half from the French fort of Beausejour, on the north side of the Misseguash River, which was then being built by La Corne. A modern rifle would carry a bullet from one to the other, but; when they were built, they were thought to be beyond cannon shot of each other. The relations between the French and English were not improved by the barbarous murder of Mr. How, the person employed by Cornwallis to communicate with the

Indians. How was enticed to the Misseguash by a pretended flag of truce, and shot by a party of Indians who were lying in ambush. Some French writers accuse La Loutre of being the instigator of this crime, but it is quite as likely to have been suggested by La Corne who, although a brave man, was cruel and ruthless. Whether he had a hand in it or not, he did nothing to punish the Indians who committed the teacherous deed. Almost immediately after it, he was recalled to Canada and M. de St. Ours succeeded him in the command of Beausejour.

The Acadians whom La Loutre had gathered about him at Beausejour, were a source of great embarrassment. They had to be fed and clothed, for they had been deprived of their means of living by their enforced emigration. The government of Canada was charged with the task of feeding them, but this was attended with great difficulty for the necessary supplies had to be sent in vessels to Baie Verte and the Bay of Fundy and several of these vessels were captured by the English. Some of the Acadians were induced to go to Prince Edward Island, but most of them preferred to remain under the guns of Beausejour or at Shediac. A return made in 1751 shows that there were 174 families numbering 958 persons at Beausejour and Shediac, who had emigrated from other parts of Acadia. Of these 29 families were from Minudie, 20 from River Hebert, 8 from Maccan, 23 from Nappan, 31 from Beaubassin, 11 from Mines and 5 from Cobequid. In February, 1752, there were at Beausejour 204 refugee families, numbering 1,113 persons, most of them from the territory immediately

south of the Misseguash. Besides these, and depending on Beausejour for protection, were 264 families, numbering 1,473 persons, who resided north of the Misseguash at Tantramar, Shepody, Memramcook, Petitcodiac and other points. Thus the total Acadian population under the protection of Beausejour at that time was 2,586 and in March, 1755, their number had increased. Of all these enumerated in 1752, there were but 66 families from Port Royal, Mines, Pizequid and Cobequid, numbering perhaps 350 persons. This emigration represented the net result of the labours of La Loutre to entice the prosperous inhabitants of these districts away from their homes.

There are no returns showing the population of the St. John River at this period. In the summer of 1753, Governor Shirley estimated the number of French families on the St. John at 100, and stated that the French had greatly strengthened the fort at the mouth of the river and had built another 20 miles up, on which 24 guns were mounted, and which had a garrison of 200 men. This fort was on the point of land where the Nerepis flows into the St John, on the east side of the first named river, but its strength was greatly exaggerated by Shirley. We first hear of it in the summer of 1751, when it was under the command of M. de Gaspe. It appears to have been built on the site of an old Indian fortification and is marked Fort Boishebert on some of the maps, but it never made any figure in Acadian history. In 1754 Lawrence employed a man to visit the French fortifications on the north side of the Bay of Fundy and give him an

account of them. He reported that Beausejour, a fort of five bastions, had 32 small cannon and a mortar mounted, besides eight 18-pounders not mounted. It had a garrison of regulars, six officers and 69 men. The fort although not large was very strong. At St. John there was only a small fort, with three bad old guns and one officer and 16 men. There were besides 160 Indians capable of bearing arms. A reinforcement was shortly expected from Canada. When he passed Beausejour there were 400 Indians collected at Baie Verte, and he reported that the French, in forty-eight hours, could assemble from 1,400 to 1,500 men from the different settlements. This spy says nothing about the fort which the French had at Baie Verte, Fort Gaspereau, or in regard to Fort Boishebert on the St. John river, so that it is evident he did not go very far within the enemy's lines.

Although there was nominally peace in Acadia after the Treaty of Aix-la-Chapelle, the attitude of the French and English towards each other was one of veiled hostility. It was felt by both sides, that war was very near and hostilities broke out in America long before war was actually declared in Europe. It was impossible that such conflicting territorial claims as existed in Acadia, could continue to be maintained without leading to bloodshed. Obviously the first thing to be accomplished by the English was the capture of Beausejour. That fortress was the key to the possession of Acadia so long as Louisburg and Quebec continued in the hands of the French. Even now, in the event of a war with some great naval power, the isthmus of

Chignecto would become a great strategic point and would bear the same relation to Halifax that the isthmus of Perekop bore to Sebastopol during the Crimean War. But it was much more than that in 1755, for it supplied an interior line of communication from Quebec to all the settlements of the Bay of Fundy and Gulf of St. Laurence.

The capture of Beausejour was undertaken in the spring of 1755. Preparations had been made for it early and, in April, two battalions of infantry, numbering about 2,000 men under the command of Lieut. Col. Winslow and Lieut. Col. Scott were raised in Massachusetts. The expedition, which left Boston towards the last of May, was under the command of Lieut. Col. Monckton, an officer of the regular army, who was afterwards Senior brigadier under Wolfe, at the siege of Quebec. At Annapolis 300 regulars of the 45th Regiment were taken on board and a small train of artillery. They reached Chignecto on the 2nd of June, and on the following day all the troops were landed and encamped about Fort Lawrence.

Fort Beausejour was then under the command of M. de Chambon de Verger, a great grandson of Charles La Tour. He was a man of no ability, and is described in a confidential French report as "inferior in every respect," but rich. His riches were acquired in Acadia by robbing the King, his master, and diverting the money granted for public services to his own use. When he was appointed, Bigot, the Intendant of Canada, wrote to him: "Profit by your place, my dear Verger; clip and cut, you are free to do what you please so that you can

come to join me in France and buy an estate near me." Verger followed this advice and became rich, and this is why Beausejour was in an unfinished state when the English appeared before it in June 1755.

As Beausejour could not be assailed in front, because of its great elevation above the marsh, Moncton decided to attack it from the rear. On the 4th of June, the English captured the blockhouse at Pointe a Buot, and crossed the Misseguash, establishing themselves the same evening on the north side of that river, a mile and a half from the fort. A week was expended in bridging the Misseguash and getting the cannon and mortars across, and, on the morning of the 13th, fire was opened on the fort from the trenches at a distance of 700 feet. Cannon and mortar fire was continued until the 16th when Verger surrendered, after learning that there was no prospect of any help reaching him from Louisburg. The terms of surrender were, that the garrison were to march out with the honours of war and to be sent to Louisburg at the charge of Great Britain, but not to bear arms for six months. The Acadians were to be pardoned, on the ground that they had been compelled by Verger to take arms on pain of death. Verger might have made a more prolonged defence, but his fort must have been captured in the end, and, as there was no prospect of relief from outside, there was no object in a lengthened resistance. His garrison was weak and not well affected, while the Acadians in the fort had no stomach for fighting. Under the circumstances the surrender of Beausejour was justifiable.

Governor Lawrence changed the name of Beausejour to Fort Cumberland, in honour of the hero of Culloden, and both it and Fort Gaspereaux at Baie Verte were occupied by English garrisons.

Boishebert was now the only French leader in arms in Acadia and it was determined to make short work of him. Capt. Rous, who had been in command of the naval portion of the expedition, was sent to the St. John River with three 20-gun ships and a sloop to drive the French away. It had been reported that there were two French warships in St. John harbour, but when Rous got there he found no ships. The French evidently did not think themselves strong enough to hold their position for, as soon as Rous appeared, they burst their cannon, blew up their magazine, set fire to all the buildings in their fort and fled up river. Capt. Rous did not attempt to follow them so that the fort at Nerepis was not attacked. The Indians living at the mouth of the River invited Capt. Rous ashore and gave him the strongest assurances of their desire to be at peace with the English. The French inhabitants at St. John were told that they would be required to take the oath of allegiance to the British crown and, if they refused, they would be removed from the country. This was probably regarded by those to whom it was addressed as an empty threat but it was destined to be only too soon fulfilled.

The expulsion of the Acadians which took place in 1755 was the direct result of their refusal to take the oath of allegiance. When Port Royal was captured by the English in 1710 one of the terms

of the capitulation was that "the inhabitants within cannon shot of Port Royal, shall remain on their estates, with their corn, cattle and furniture, during two years, in case they are not desirous to go before, they taking the oath of allegiance and fidelity to his sacred majesty of Great Britain." This distance, "within cannon shot of Port Royal," was interpreted to mean three English miles; and it was ascertained that the number of persons residing in this area was 481. By the Treaty of Utrecht, in 1713, France ceded all Acadia to Great Britain, and by the 14th article of that Treaty it was agreed that "the subjects of the King of France may have liberty to remove themselves within a year to any other place, with all their moveable effects, but those who are willing to remain and to be subject to the King of Great Britain, are to enjoy the free exercise of their religion, according to the usages of the Church of Rome, so far as the laws of Great Britain, do allow the same." In June of the same year, nearly three months after the Treaty of Utrecht was signed, Queen Anne wrote to Nicholson the Governor of Nova Scotia ordering him to "allow such of the Acadians as had any lands or tenements under his government and were willing to continue subjects of the Queen, to retain and enjoy their lands without molestation or to sell the same, if they chose to remove elsewhere." The consideration given by the King of France for this concession was his release from the galleys of a number of his own subjects who had been condemned for being Protestants.

It will be observed that the condition on which the Acadians were to be allowed to retain their lands

and remain in the country was, that they should take the oath of allegiance and become British subjects. The Acadians refused to take this oath and, while they professed their willingness to do no injury to British interests, claimed to be neutral and therefore exempt from all these services to which other subjects were liable. Many were the attempts that were made by the Governors and administrators of Nova Scotia, to induce the Acadians to take the oath of allegiance. All were unsuccessful until the return of Governor Phillips to the province in 1730. Then all the French inhabitants of Nova Scotia took the oath of allegiance without any qualification as to bearing arms. The Acadians afterwards declared that they did this with the understanding that a clause was to be inserted, exempting them from bearing arms. This, if true, would go to show that twenty years after Acadia had become a British province, the French inhabitants still refused to regard themselves as British subjects.

When Cornwallis became Governor of Nova Scotia, one of his first acts was to request the Acadians to take the oath of allegiance. This they refused to do but they offered to take the oath of 1730, with an exemption from bearing arms. They said that if this was not granted, they were resolved one and all to leave the country. Matters were brought to a crisis after the fall of Beausejour. Governor Lawrence summoned deputies from all the French settlements to Halifax and informed them that all the Acadians must either take an unconditional oath of allegiance or leave the country. They all refused to take this oath and

Governor Lawrence and his council at once took measures to remove them. Transports were hired in New England for the purpose of conveying the Acadians to their places of exile, and troops were collected at the various settlements to assist in doing this most revolting work.

The expulsion of the Acadians from their homes was carried out in September and October, 1755. At Mines and Pizequid about 3,400 persons were embarked and sent away. At Annapolis 1,664 were deported, but one of the vessels, with 226 persons on board, was seized by her passengers and carried into the St. John River. At Chignecto the officer who had charge of the work of deportation met with very indifferent success. Boishebert, who had been driven from St. John, had made his way to Chignecto and organized the Acadians to resist the English The inhabitants fled to the woods when the English tried to collect them, and the latter had to be content with burning their dwellings and barns. On the 2nd of September Major Frye was sent with two hundred men from the garrison of Fort Cumberland to burn the villages of Shepody, Petitcodiac and Memramcook. At Shepody they burnt 181 buildings, but found no inhabitants except 23 women and children. Next day they burnt the dwellings on both sides of the Petitcodiac River. Fifty men who were sent to burn the Chapel and some buildings near it, were attacked by 300 French and Indians under Boishebert, and compelled to retreat, with the loss of 23 men killed and wounded including two officers. Frye advanced with the remainder of his force against Boishebert

but, after an engagement which lasted some time, was compelled to retire to his vessel. In the end about 1,100 of the inhabitants of Chignecto were got together and sent away, but this was hardly more than one-third of the inhabitants of that district. The others, however, had been driven from their homes and were forced to become wanderers, depending for their food on the generosity of the French government, until after the fall of Quebec.

The period from the fall of Beausejour to the capture of Montreal, was an uneasy time in Acadia. The French had been driven from Beausejour and Fort Gaspereau, but they still held the River St. John and all the country north of the isthmus. The Acadians, of whom there were about 2,500 in that region, were rendered desperate by their misfortunes and they were aided by bands of Indians to whom killing and plundering were more pleasing than the arts of peace. The English garrisons of the forts on the isthmus were so beset by them, that the soldiers did not dare to venture beyond the reach of their guns. The French fort at Baie Verte had been renamed Fort Monckton after its capture. In April 1756 a party of thirty soldiers went out from this fort to get wood. They were attacked by a party of Indians who killed and scalped nine of the men. This, and other attacks of a similar character, led to the enlisting of a company of Rangers whose special business it was to deal with Indians. These men received higher pay than the regulars or the New England troops. The latter indeed were very difficult to retain in

Nova Scotia after the fall of Beausejour, for many of them thought their services ought to have terminated with the capture of that place. Boishebert, the French leader had established himself at Shediac, which was within easy reach of Louisburg, his lieutenant held the St. John River. The Acadians had to be fed, as they had been driven off their farms, and, in the course of a year or two, most of them made their way to the Miramichi and the Restigouche where they were not likely to be molested by the English. They built villages of considerable size at both places, and, had Canada been preserved to France, no doubt would have settled themselves on these two great rivers, but Canada was lost and the Acadians once more left to the mercy of their enemies.

The capture of Louisburg was the next object of the English, for it was felt that so long as that place remained French, Nova Scotia could not be secure. The resources of Great Britain were then wielded by the great William Pitt who was resolved to destroy French power on the continent of America. Louisburg had been threatened in 1757 by an English fleet and army, but it was not until the following year that the final stroke came. The threat however, had the effect of relieving Acadia for a time of the presence of Boishebert, for he was summoned to Louisburg, to which he took 100 Canadians and Acadians and 250 Indians and was placed on outpost duty outside its walls. From that time until 1758 Boishebert was employed in aiding its defence by outside operations, none of which were very successful or had any substantial effect on the work of the beseigers.

Immediately after the capture of Louisburg Col. Monckton was sent, with a force of Colonial Infantry, the 35th Regiment and the second Battalion of Royal Americans to drive the French from the St. John River. The fort, which had only two small cannon in position, was captured and most of the garrison escaped up the river in boats. The armed Province sloop "Ulysses," which attempted to follow them, was wrecked in the falls. The French took refuge at St.Anne's Point, where there was a settlement, where there had been for two or three years an armed fort. The old fort at St. John was then occupied by an English garrison and named Fort Frederick. Lord Rollo was, at the same time, sent to St. John Island where there was upwards of 4,000 French inhabitants to exact submission from them, while General Wolfe, who had taken a leading part in the capture of Louisburg, was sent with Sir Charles Hardy to ravage Gaspe, Miramichi and the other French settlements on the Gulf and Bay Chaleur. This was a wretched business for the future conqueror of Quebec to be engaged in, but he mitigated its severity, so far as possible, by refusing to allow the persons of the inhabitants to be injured.

Lawrence was anxious to have the vacant lands in Nova Scotia, from which the French had been driven, settled by English from the old colonies in Great Britain, and, in October, he issued a proclamation directing attention to the value of these lands and offering them for settlement. A second proclamation which was issued a few months later, stated the terms upon which these lands would be granted. Townships were to consist of 100,000

acres. Each head of a family was to receive 100 acres of woodland, and 50 acres were to be added for each member of a family, subject to a quit rent of one shilling for every fifty acres, to begin ten years after the date of the grant. The grantees were to cultivate or enclose one third of the land in ten years, one third more in twenty years and the remainder in thirty years. No one person was to receive more than 100 acres. These liberal terms attracted the attention of persons in the New England Colonies who were looking for land, and agents for these land seekers began to arrive at Halifax in April, 1759, from Connecticut and Rhode Island. As these people were the first comers, they had the choice of the best lands, and, during the summer, arrangements were completed for settling Horton, Cornwallis, Pizequid, Cobequid, Granville and Chignecto. The last named township was selected by agents from Connecticut. The number of families to be settled in all these townships was 2,550, of which 650 families or 3,250 persons were to be settled in 1760 and the remainder in the two following years. This programme was not strictly carried out for Chignecto was not settled until 1761.

In March 1759 a company of Rangers under Capt. McCurdy was sent up the St. John to drive the French from St. Anne's Point. McCurdy was accidentally killed by a tree falling on him and Lieut. Hazen, who was afterwards an American General in the Revolution, took the command. St. Anne's was destroyed and atrocities were committed by the Rangers which called forth the censure of General Amherst, who said he must always disapprove of

killing women and helpless children. He should have equally disapproved of killing men who were not armed. Hazen not only burnt all the houses at St. Anne's, but all the French houses on the River below St. Anne's. The miserable inhabitants fled farther up river to escape the attacks of their fellow Christians wearing British uniforms. The people of New England, from whom these Rangers were recruited, were filled with a savage spirit of hatred towards the French, which they sought to gratify on every occasion.

The capture of Quebec took place in September, 1759, and was a fatal blow to the French in America. Montreal indeed was held by the French until the following year, but the struggle to retain Canada was hopeless and, in a little while, the French flag was lowered for the last time and all Canada became an English possession. The last hope of the Acadians was gone, and these faithful people, whose attachment to France had been their ruin were left to make the best terms they could with their enemies.

Two hundred inhabitants of the St. John River under the guidance of the Jesuit fathers Germain and Coquarte arrived at Fort Frederick and exhibited to Col. Arbuthnot, its commander, a paper from Cramahe, the Deputy Judge Advocate at Quebec, certifying that they had taken the oath of allegiance to the King of England. General Monckton, they said, had then given them permission to return to their habitations. Arbuthnot referred the matter to Lawrence, who refused to recognize this right to return to their lands, on the

ground that Cramahe must have supposed that they were residents of Canada when he administered the oath to them. These people were required to remain at Fort Frederick during the winter, and, in the spring, they were taken to Halifax, their status being that of prisoners of war.

In November, 1759, four Acadians came to Fort Cumberland with a flag of truce, as deputies for about 190 persons residing at Petitcodiac and Memramcook. They told Col. Frye, the commandant, that they desired to surrender to the English government. They also stated that they had not provisions enough to keep them alive until the spring. Frye consented to take 63 of them into the fort and feed them until spring. About the same time three Acadians arrived at Fort Cumberland, as deputies for 700 French, who were at Buctouche, Richibucto and Miramichi. They were in the same difficulty as the others with respect to food, and Col. Frye agreed to keep 230 of them for the winter. These people had been engaged in piratical expeditions against English commerce during the summer, and acknowledged having captured twelve vessels near Canso. The authorities, in view of their desperate condition, agreed to accept their submission and assist them with provisions. During the following summer between three and four hundred people who had come into Fort Cumberland were sent to Halifax. That little town had now several hundred French Acadians living in it or near it, for whom there was little or no work, and who were a charge on the government.

In the spring of 1760 the French sent a small fleet to Canada to assist in the reduction of Quebec then held by the English and beseiged by Levis. Two of these vessels were intercepted and captured by the English, and the other four, after reaching the Gulf of St.Lawrence and capturing some English vessels, ran up the Bay Chaleur to escape the English fleet under Lord Colville. They landed their troops on the north side of the Restigouche River and built a battery sending a message to Montreal over land, to notify Vaudreuil of their presence. Admiral Byron, who was cruising in the Gulf, heard of their arrival and followed them. On the 24th June he got to the mouth of the Restigouche River and found a French battery manned by 250 French soldiers. 700 Acadians and 800 Indians. He found considerable difficulty in approaching the battery owing to the shallow water, but, after a severe engagement, on the 8th of July, succeeded in destroying it and capturing or sinking the four French war ships and nineteen other vessels that were with them. The town of New Rochelle which had been built by the Acadians, was also destroyed. There seemed to be no place of safety for these poor people and the presence of a French force which was unable to protect them, completed their ruin.

The fall of Quebec seems to have convinced the Indians that their business of pillaging and murdering the English, must soon come to an end and they showed a disposition to make peace. It is surprising that the authorities at Halifax, should have thought it worth the trouble to make peace with them, for they had broken every treaty they

ever made, sometimes almost before the ink was dry. In February and March 1760 new treaties were made with the Malicete Indians of St. John and Passamaquoddy, and the Micmacs of Richibucto, Chignecto, Shubenacadie and other districts. The red men received in exchange for these treaties, food and clothing, among the latter being gaudy costumes for their chiefs. They returned to their homes well satisfied with the result of their parleys with the English, which had been the means of rescuing some of them from starvation.

CHAPTER V.

THE year 1760 was the beginning of a new era in the history of North America. Although Canada was not surrendered by treaty until February, 1763, Great Britain was in actual possession of the country, and it was well understood that no peace would be made which involved its restoration to France. Nova Scotia was therefore safe from future attacks, and all that remained now, was to provide it with a population capable of developing its vast resources. But first of all tillers of the soil must be found and, as we have already seen, the work of obtaining them had been begun by Lawrence in 1758. Before the close of 1760 Lawrence was dead, and the work which he had left unfinished had to be taken up by others. His death was sudden, and while he was still in the prime of life, was perhaps none too soon for his fame, for he had already left a broad mark in the history of the country which he governed. The expulsion of the Acadians will always be associated with his name, for he was the originator and main instrument of that severe measure. If he had lived longer he would have been almost certain to get into trouble with the House of Assembly, for he was not a friend of popular government, and he did not approve of the establishment of a legislative assembly, a measure which the

English cabinet of that day thought necessary to the peace and progress of the colony.

On Lawrence's death, which occurred in October, the senior member of the council, Mr. Belcher, assumed the government, and continued to administer the affairs of the province until the appointment of Col. Montague Wilmot as governor in September, 1763. Belcher, who became Chief Justice of Nova Scotia, was a civilian, and he appears to have been in a constant state of trepidation with respect to the Acadians. Although it was evident to everyone but himself, that since the conquest of Canada they could no longer be dangerous, he appears to have lived in daily fear of attacks from them and was desperately anxious to get them all out of the country. In April, 1761, he wrote to the Lords of Trade in regard to the danger from the presence of the Acadians, of whom he said 1,540 had not submitted to the government. Of these, 1,300 were at Miramichi and Restigouche, and 240 persons at Chignecto. At Halifax there were 440 Acadians. A considerable number of the Acadians who were at Halifax had been to England. Belcher gives no estimate of the number of Acadians on the St. John River, except that there were 40 at St. Anne's. He asked for help to prevent the Acadians doing any mischief. As the province was then being settled by people from New England, he feared that any hostile movement on the part of the Acadians would tend to prevent the settlement of the province. Lord Amherst, who desired the restoration of peace as speedily as possible, made light of his fears, but later in the

year it was reported that some of the Acadians who remained in the Bay Chaleur were engaged in privateering and capturing English vessels. Belcher sent Capt. Roderick Mackenzie, of the Montgomery Highlanders, the 77th Regiment, who commanded at Fort Cumberland, with a body of his troops, in two vessels to put a stop to their outrages, and he succeeded in surprising and capturing 787 Acadians, men, women and children, of whom he carried 335, all his vessels would accommodate, to Halifax. The remainder promised to come in when summoned.

In the meantime the settlement of the northern portion of Nova Scotia was proceeding steadily. In this year some twenty-five families from Rhode Island settled at Sackville, and soon afterwards they were joined by others from Massachusetts. As the lands they occupied were very rich, this settlement grew very rapidly and had 349 inhabitants, all natives of America, in 1767. Cumberland township, which embraced lands north of the Misseguash and east of Sackville, was settled about the same time as the latter. In 1763 it contained 35 families and in 1767 its inhabitants numbered 334, of whom 269 were born in America. In 1763 the grant of 34,500 acres of this township passed to Joseph Morse and sixty-five others. Many of the settlers, both of Cumberland and Sackville, were unfortunate enough to take part with the New England rebels and found it necessary to fly the country. In 1762 the settlement of the St. John River by people of English origin began. The previous autumn the country

had been explored by a party from Massachusetts, under the leadership of Israel Perley, representing a number of persons who were looking for land. Their report was favorable and on the 28th August, 1762, Capt. Peabody, the first English settler at St. John, arrived in a small vessel from Newburyport, accompanied by his family and several other persons. They had brought with them the frame and materials of a house, which was erected immediately and occupied the third day. It was built at Portland Pt. on the site of an old French fort.* With Peabody was James Simonds, who founded the first business establishment at St. John and became wealthy.

The following year a large number of settlers arrived at St. John, in four vessels, under the guidance of Israel Perley, and proceeded up river. They settled on the east side of the St. John, on the territory now occupied by the parishes of Maugerville and Sheffield, the whole of which was originally known as Maugerville. There is no record of the number that came in this immigration, but in 1767 the parish of Maugerville had 261 inhabitants, all Protestants and all except 26 natives of America. Most of the men in this colony had taken part in the war which resulted in the conquest of Canada, either as officers or privates. Capt. Peabody had won distinction in the operations about Fort William Henry in 1756 and all the others had seen service. These settlers appear to have

* See appendix to Chapter V at last of this chapter regarding the site of Fort LaTour, containing Professor W. F. Ganong's views and Dr. Hannay's reply.

located themselves on the St. John without reference to the government of Nova Scotia, but such an invasion of the territory of that province was entirely in the line of the conduct of Massachusetts, whose government, from the landing of the Puritans in Boston, in 1650, had endeavored to steal all the territory in sight from their neighbors. When the news reached Halifax, Messrs. Newton and Morris, a committee of Council, were sent to notify them that the lands on the St. John were reserved for disbanded soldiers. The committee reported on their return that they should not be disturbed, but should receive grants. This was an act of grace that ought to have been remembered at a later day.

The close of the war in 1763 greatly increased the number of land seekers in Nova Scotia. A great many officers and soldiers were disbanded and it was thought they could be best provided for by giving them land grants. According to the scale adopted, field officers who served in the war were entitled to 5,000 acres, captains to 3,000 acres, subalterns 2,000 acres, non-commissioned officers 200 acres, and privates 50 acres. These grants were excessive for the officers and perhaps too small for the men, but the figures are worth reproducing as an illustration of the spirit of the age. This was still further shown by the case of certain field officers who acquired lands for speculative purposes. General Haldimand, General Boquet, General Gage and other officers received enormous land grants, although they did not propose to live on their estates, but intended to place tenants upon them. New Brunswick had in

this way a very narrow escape from a system of landlordism similar to that in England, which has had the effect of making a few persons rich at the expense of the mass of the people. Such a system was imposed on Prince Edward Island and had to be got rid of a century later at a great cost. It failed in New Brunswick owing to various causes, the main one being the war of the Revolution which for a time put an end to the settlement of these large estates, and, when the war was ended, brought such a large body of Loyalists into the country that the large estates could not be held by the grantees. One speculator named McNutt, who claimed to be able to bring out a large body of settlers, got upwards of two million acres of land reserved for him in Nova Scotia, of which one million one hundred thousand acres were on the St. John River. Major Otho Hamilton of the 40th Regt. had 100,000 acres reserved for him on the St. John, and this was but an example of the manner in which the land was given in Governor Wilmot's time. Among the large grants of that period were 100,000 acres and 50,000 acres in Conway to Thomas Falconer and others, and to the same parties 125,000 acres in Sunbury township. Alex. McNutt and others were granted 100,000 acres in the township of Amesbury on the St. John, and 100,000 acres on the Keswick. Col. Haldimand and his associates got 50,000 acres on the Nashwaak, and 100,000 acres at Shepody, including Hopewell township. These are but examples of the reckless manner in which the land was given away. The effect of this was that when the Loyalists came they found the best lands on the

St. John River in the hands of speculators who had done nothing to carry out the conditions of their grants, and processes of escheat had to be resorted to for the purpose of obtaining land for the new comers. In this way and by other legal processes the great landowners were got rid of, and New Brunswick became a land of free-holders where nearly every man owned the soil he tilled.

In 1765 Hopewell township, 100,000 acres, was granted to Boquet, Haldimand and three others, and Hillsboro township to Robert Cummings and four others. Moncton township at the same time was granted to John Hughs and others. A considerable number of persons, mostly Germans, from Pennsylvania were sent to settle these townships in 1765 and the years immediately following. In 1767 Moncton is returned as having sixty inhabitants of whom 49 were Germans. This census makes no mention of either Hillsboro or Hopewell, so it is to be presumed the number of settlers was small when it was taken. There is a good deal in regard to the Shepody settlement, as Hopewell was called, in the Haldimand correspondence, beginning with the year 1765. The fate of all these settlements was the same. The proprietors, on placing tenants on the lands, were unable to comply with the conditions they had agreed to and were sued by their tenants. The latter got verdicts against the landlords, and the lands were sold for the damage and costs and bought in by the tenants who thus became free-holders. The descendants of these people are now numerous in Westmorland and Albert counties.

In 1765 William Davidson, a native of Scotland, who was familiar with the Scotch method of curing salmon, went to reside on the Miramichi. He and his partner, John Cort, obtained a grant of 100,000 acres on the Miramichi River including Beaubear's Island, and there established an extensive fishery which employed a large number of people. About this time the Passamaquoddy district was also being settled. There were fishing camps on the St. Croix as early as 1760, and gradually settlers began to come. James Simonds and his partner were carrying on fishing operations at Passamaquoddy in 1763 and subsequent years. The same year Indian Island was settled by James Boyd, and in 1766 Robert Wilson took up his abode at Campobello. All these settlements were the results of the peace which had liberated Nova Scotia from the terror which had so long retarded the country's progress. The Indians, no longer protected and encouraged by France, were forced to remain quiet, and gave no more trouble to the industrious settler. He could now till his fields without the fear of being murdered, and his property stolen or destroyed. Thus the first condition of progress and prosperity was realized, and it was hoped and believed that the peace would be a lasting one. The garrisons were all reduced and some of them entirely abolished. Fort Frederick at St. John, which during the war had a garrison of 200 men, was left to the care of Mr. James Simonds, who, in 1764, established his principal fishing station and place of business at St. John. This was the beginning of the commerce of what has grown to be one of the chief cities of Canada and its principal winter port.

The total population of that part of Nova Scotia which is now New Brunswick, according to the census of 1767, was 1,196, of whom 147 were Acadians. Of the remainder, 874 were natives of America, sixty were Germans, fifty-three Irish, twenty-five English and seventeen Scotch. The number of Acadians returned is probably much too large, but, as they lived in remote sections of the province, it was not easy to obtain correct returns of them. The people of American birth, natives of New England, formed three-fourths of the population, and were the only element worthy of being taken into account in connection with the growth of the country. The principal settlements, such as Maugerville, Sackville and Cumberland, were merely New England communities planted in Nova Scotia, with all the peculiarities, prejudices and opinions of the communities from which they had emigrated. This fact became of great importance during the Revolutionary troubles a few years later.

The close of the war with France left the English colonies in North America free from the dangers which had constantly menaced them. The colonists had taken an active part in the war, they had acquired military experience, and, fighting side by side with the British troops, they had learned that they were the equals of the regular soldiers in most things and their superiors in some respects. They had seen brave soldiers sacrificed by the glaring incompetence of British generals, and they had formed a low opinion of the capacity of the average British officer, whose ignorance of his duties was only equalled by his arrogance and insolence to the

colonists. Thus a double evil was inflicted on the British name for the Englishman was despised as well as disliked, and the way was prepared for that separation of the British beyond the seas, from the mother country which was ratified just twenty years after the signing of the Treaty of Paris. That separation was perhaps inevitable, but it might have been brought about without bloodshed and all the evils which resulted from a long and costly war.

The first act in the mournful drama which, in the course of a few years, changed a loyal and vigorous population of Englishmen into bitter enemies of the mother country, was the passage of a resolution, introduced by Grenville, in the British House of Commons, announcing the intention of the government to raise a revenue in America by requiring all legal documents to bear stamps. The stamp act was passed early in 1765, notwithstanding the remonstrances of the colonists, but the attempt to enforce it produced riots in most of the colonies. A general congress of the colonies, at which nine were represented, was assembled in New York and passed a series of resolutions against the stamp act. Memorials were also drafted and addressed to the King and both Houses of Parliament, praying for the repeal of the obnoxious measure. The ground taken by the colonists was that they could not be taxed except by their own legislatures, a doctrine, the correctness of which has been long since conceded, but which was practically denied by the ministers of George III. The determination of this King to force the colonies to submit to taxation without representation, led to the loss of

America. In the course of a few months the stamp act was repealed, but the policy which caused that act to be passed was persisted in at a later day with lamentable results to the British Empire. An act was passed imposing duties on certain articles imported into the American Colonies direct from the country of production, one of these articles being tea. This measure, which was introduced by Charles Townshend, had the strong support of the King, and it became law in the latter part of 1767. This act was so far modified as to be made to apply only to tea, but this did not mend matters, for the Americans were contending for a principle which was as much endangered by the imposition of a duty on one article as on one hundred.

This is not the place in which to enter on a detailed history of the American Revolution, but it is proper to say something of the person who was mainly responsible for it, George III. This King has better reasons for being remembered than most of his predecessors, for it was owing to his obstinate folly, that the affections of his loyal subjects in America were alienated, and the thirteen colonies lost to the Empire. George III. was a man of mean understanding and inferior education, without literary or artistic taste, without culture of any kind, a tyrant in his disposition and an enemy of liberty, who was determined to rule at all hazards, both at home and abroad. His apologists endeavor to excuse his faults, by saying that he was a good husband and did not keep a mistress like the two first Georges. But this fact only made him the more dangerous as a King, to the liberties of his

people for it gave an air of respectability to his worst measures. That his notions of morality were low, can be easily proved by his constant resort to the bribery of members to carry his measures in the House of Commons, a business that he carried on in the most unblushing fashion. His reign was a period of loss and humiliation for England in many quarters of the world, but nowhere more so than in America, where a new and hostile nation was created that may yet become a source of danger to the mother country.

The province of Nova Scotia had possessed a legislature since 1758, but it was not until 1765 that the people residing on the St. John River became entitled to representation in it. In that year the western portion of what is now New Brunswick was erected into a separate county under the name of Sunbury. This name was given to it out of compliment to the Earl of Halifax whose second title was Viscount Sunbury. The new county was allowed two members in the Legislature. At the same time the township of Sackville, which had become sufficiently populous to be entitled to representation, was allowed one member. The township of Cumberland had previously been given one member, and it was first represented in the new House of Assembly which met in 1765. In this early granting of representation to the new settlements, the authorities at Halifax were merely carrying out the terms of the agreement under which the New England settlers had been induced to come to Nova Scotia. They had stipulated that they should enjoy the same representative

institutions as they had in New England, and the same control over public affairs.

From the year 1765 to the outbreak of the American Revolution, the northern part of Nova Scotia did not make much figure in history. The work of settlement proceeded slowly but steadily. Besides the important settlement at Maugerville the territory on the St. John River was divided into a number of townships, most of which have now wholly disappeared from the map of New Brunswick. On the west side of the river, from the sea to the mouth of the Nerepis, was the township of Conway on which a few families were settled. Beyond Conway, was Glasier's Manor, a tract of 5,000 acres which was granted in 1765 to Col. Beansley Glasier. On the west side of Long Reach, below the Devil's Back, Col. Conyngham and others had a grant of 5,000 acres. At the place now known as Brown's Flat, Isaac and James Caton had a grant of 2,000 acres including the islands opposite. Beyond that was Kemble Manor, granted to Thomas Gage and others, containing 20,000 acres. Then came the township of Gagetown, 100,000 acres of which were granted to Thomas Falconer and others. Beyond Gagetown was Burton, which included the present parish of Lincoln. This was also granted to Thomas Falconer and others. Sunbury township came next. It included the territory on the west side of the river from the south line of the County of York to Long's Creek. Of this township 125,000 acres were granted to Thomas Falconer and others. On the east side of the river near the foot of the Reach,

10,000 acres were granted in 1765 to Walter Sterling and others. On the same side of the river was the township of Amesbury, which extended from the mouth of the Belleisle north along the river to the lower line of Maugerville. North of Maugerville was New Town, which extended beyond the Nashwaak and was granted to General Haldimand and others. Beyond New Town was Frankfort, along the Keswick, 100,000 acres of which were granted to McNutt and others. The owners of these extensive grants in some cases, placed a few settlers upon them, but the number was so small that in 1783, when the Loyalists came, the population of all the the townships on the St. John river, outside of Maugerville, and exclusive of French inhabitants, only reached a total of 521 persons. At that time many of the persons who had received grants were dead, some had become rebels, and a few resided in the United Kingdom and had no means of improving the land that had been given them. The townships which had been created ceased to exist and Conway, Amesbury, Frankfort, New Town, and Sunbury have long ceased to exist as townships.

In 1770 Lieutenant Owen, of the Royal Navy, having three years previously received a grant of the Island of Campobello, placed about thirty settlers upon it and established himself there. This was the beginning of a settlement which was destined to be permanent, and the title to the Island of Campobello, continued in the Owen family for more than a century, by which time it contained more than one thousand inhabitants, most of them

tenants of the family. This was the only grant in New Brunswick that fulfilled its original intention by establishing a system of landlordism such as exists on the other side of the Atlantic, and the fact that the residents of that island were a community of fishermen rather than of farmers may have had a good deal to do with the permanency of the system. In 1772, the township of Sackville received a fresh body of settlers from England, all natives of Yorkshire. This was a fortunate event, for these men were loyal and remained faithful to the government at a time when the men from New England were seeking to subvert the authority that had given them the soil on which they dwelt. The descendants of these Yorkshire settlers are now numerous and influential in the County of Westmorland.

It is to be regretted that we have no statistics of the New Brunswick settlements on the eve of the American Revolution, but, except in the case of St. John and Conway, there are no figures of a later date than 1767. In 1775 there was an enumeration of the inhabitants of both these places from which it appears that 11 families, numbering 70 persons, lived at St. John and 17 families, numbering 72 persons, at Conway. All these people, with the exception of one Irishman in St. John and two Englishmen in Conway, were natives of America. They were all Protestants and the adult males in both communities numbered forty-one. Both communities were prospering and apparently their slow but steady growth was not likely to be disturbed, when, suddenly, the Revolution came,

destroying the business of both communities at first, but finally giving them such an increase of population as made them at once important centres of industry and commerce. However much injury the Revolution may have done to other parts of America, it certainly proved in the end a great benefit to New Brunswick. Had it not been for that untoward event this territory might have waited long for the energetic and experienced population that was so suddenly cast on its shores.

The life of a settler on the St. John River, prior to the Revolution, must have been dull enough. The means of travel were so few, that he was practically cut off from the outside world, a journey to Boston or Halifax being a much greater undertaking than one to England is at present. The only means of reaching these places was by the river to the sea and from thence by a small trading sloop to the place of destination. But the river was frozen for nearly half the year and the sea was then dangerous to navigate by small crafts. During the season, when the river was free from ice, boats and canoes were the principal means of travel. There were no roads and no wheeled carriages, so that travel by land had to be on horseback, over rude paths through the woods, or along the edges of the intervales. The houses of the settlers were rude in the extreme and very scantily furnished. This lack of what would now be regarded as the ordinary comforts of life, was not due so much to poverty, as to the difficulty of procuring the necessary articles. All the trading of the settlers on the river was done with Simonds, Hazen and White at St. John, and

for the convenience of those who could not leave their farms, a sloop laden with goods was occasionally sent up the river and returned with the produce for which the goods had been exchanged. Money was not plentiful, most of the transactions being by barter.

As money was scarce and the market limited, it was the aim of every settler to live within himself as far as possible. His farm was expected to provide him with all his food and ordinary clothing, leaving to be purchased only such necessary articles as the farm did not produce. Indian corn was then grown to a much greater extent than at present, and it formed the staple of the food of the people. Where transactions were in kind, corn was made the basis of board, half a bushel of corn being the equivalent of a week's board of a man. Sometimes board was paid for in work and two days work was reckoned for a week's board. The rate of wages was two shillings a day, New England currency, except for mowing, framing, hoeing corn and raking hay for which the rate was two shillings and sixpence. This last sum was equal to a fraction over forty-one cents of the New Brunswick money of the present day. The wages of a woman servant were ten shillings a month, equal to eighteen dollars a year of the money of today, and yet, at that time, every article of wearing apparel which had to be purchased was more costly than at present. Indeed almost the only article that was cheaper in 1770 than it is now was rum.

The St. John River settlers of that day were very religious, but they could not accomplish anything

without a considerable consumption of liquor. The item of rum figures in every account, for it was looked upon as one of the necessaries of life. Not only was it drunk at all gatherings of a festive character, but also wherever men met together for work, and it was used in the family as tea is in this century. Strange to say the people were not ashamed of this open use of liquor, and they would have laughed at any man who proclaimed its use a sin. In those days they did not vote for prohibition or for Scott acts, and then sneak behind a barn to suck a bottle of bad whisky. They may have been mistaken in their views, but they were at least manly in avowing them. The use of liquor undoubtedly leads to many great evils, but there can hardly be any evil so great as for whole communities to vote for and pretend to support sumptuary laws which in practice they condemn and disobey, thereby bringing all laws into contempt.

The opportunities for education in New Brunswick one hundred and forty years ago were not very good. The teachers were few in number and were mostly persons who were engaged in other employments during the summer months. Winter was thus the time for attending school, but the distances were great, the roads bad, and there were many days when school could not be reached. It required a great deal of zeal and energy for a youth to obtain an education in those days. The people, as I have already said, were very religious, most of them members of the Congregational Churches of New England. As they had few amusements,

their zeal for attending church was great. They had no church building for many years, and religious services had to be held in their houses. It was a long time before they had a settled ministry, but transient preachers visited them occasionally, and were always cordially welcomed. The first settled minister on the St. John River was the Rev. Seth Noble. He received a call in June, 1774, his salary being fixed at sixty-five pounds currency, with a settlement allowance of one hundred and twenty pounds. In addition to this, he was to have twenty-five cords of wood cut and hauled for him every year. These were very liberal terms, considering the smallness of the population and their limited means. The Rev. Seth Noble accepted them, and it would have been well for him, as well as for his flock, if he had been content to devote himself to his duties as a Christian minister. Instead of doing this, he sought, and with considerable success, to teach his people to become rebels, and, as a result, had to fly the country, and take refuge in Maine where his circumstances were not nearly so good as they would have been if he had remained on the St. John.

The farmers on the St. John grew an abundance of hay and were able to keep many cattle, for which there was always a market, especially after the beginning of the war of the Revolution, when supplies were needed for the British armies. Thus they could live in tolerable comfort with but little labour, and if they did not possess much money, they had its equivalent in another form. The intellectual side of their natures was

not well nourished, books were few in number, mostly dry religious treatises, but most of them probably had no taste for literature, and a man seldom misses what he has never known. On the whole, although their lives were dull and devoid of those excitements which belong to our modern life, no community in America was in a fairer way of worldly prosperity than the settlers on the intervale and marsh lands of New Brunswick, when the war of the Revolution came and threw the whole continent into confusion.



SITE OF FORT LA TOUR.

**Appendix to Chapter V.*

Attempts have been made to prove that the alleged old French Fort on Portland Point was the original Fort La Tour, instead of the fort on the Point behind Navy Island, which afterwards was rebuilt by Villebon, and, after the English occupation, became Fort Frederick. Professor Ganong, of Smith's College, is the leading advocate of this theory, and I have therefore thought it only fair that he should be heard in defence of it, in the form of a note in this book. At my request he has written the following:

"Dr. Hannay has been so courteous as to invite me to contribute to his book a note on the site of Fort La Tour. I accept with the greatest pleasure, and with an appreciation heightened by the recollection that, in the past, his views upon this subject have differed from mine. Would that I might reckon him among my converts!

"Of the four or five sites which have been assigned, at various times, to Fort La Tour, only two appear to deserve serious historical consideration—the "Old Fort" site, on the west side of the harbour, and Portland Point, on the east side. Both are known to have been occupied by French forts in early days. I cannot, of course, attempt here to discuss the historical evidence in the case, but must content myself with the briefest synopsis of its

general nature, leaving the interested reader to turn for details to the publications mentioned below.

"We note first the evidence for the Carleton or west side site. It consists in (1) tradition, (2) a statement of a French officer in 1760, who places Fort La Tour there, (3) certain maps which locate it there, including one made shortly after its destruction, and others of 1755 and later. Further than this, no evidence for this site, I believe, exists. In answer I would say—(1) tradition is notoriously untrustworthy for events so long removed, (2) the chance statement of a visiting officer, over a century after the destruction of the fort, can have little weight in such a case, and (3) all the known maps of importance which place the fort on the west side, do so in first editions only, and remove it to the east side, in their later and corrected editions.

"We consider next the evidence for the Portland Point Site. It is as follows:—(1) Nicholas Denys, in 1672, published his well-known book, in which he gives a description of St. John Harbor. He is known as a faithful narrator of all that came within his own knowledge; had visited the harbour within a few years after the destruction of the fort and had employed some of La Tour's men. His description is very clear, and appears to me, to allow no doubt that Charnisay's fort, built after the destruction of La Tour's, stood upon the old fort site at Carleton. He does not tell us where La Tour's stood, except it was on higher ground and had better water than Charnisay's, but his words appear to me to imply that it was on the opposite side of Navy Island from Charnisays' Fort, which would locate it at Portland Point. (2) All of the numerous known

maps (many of them made from independent data) which appeared during the century after the destruction of the fort, place it upon the east side, with but a single exception, and that one in its later editions removes it to the east side. Even the principal map of later date, which marks it on the west side, in a first edition, removes it to the east side in a later issue. The map evidence, therefore, is practically unanimous in placing it upon the east side. Now, but a single fort site is known on the east side, and that was at Portland Point, which fact, taken in connection with the implication of Denys, that it was on the side of Navy Island away from Charnisays' fort, seems to me to locate it at Portland Point.

"In order to make out a case for the Carleton site, it is not only necessary to bring forward some positive evidence for that site, comparable in value with that favoring the Portland Point site, but the testimony of Denys must be explained away, and the early map-makers, must be proven to be wrong. To view the subject in another way, if one assumes that Fort La Tour stood at Carleton, he is involved in a maze of difficulties and inconsistencies as he reviews the historical evidence. If he assumes that it stood at Portland Point, there are no difficulties whatsoever, and all the evidence is clear and consistent.

"The argument and evidence is given in detail in my paper in the Transactions of the Royal Society of Canada in the volume for 1891, and in the New Brunswick Magazine for July and September, 1898, while Mr. Hannay's reply is in the same magazine for August, 1898. W. F. Ganong.

My answer to this statement is as follows, which is copied from the New Brunswick Magazine, of August, 1898:

"For the proofs of his theory that Fort LaTour stood at Portland Point, and that the fort on the Carleton side, now known as Old Fort, was the one built by d'Aulnay Charnisay, LaTour's enemy, Dr. Ganong relies on a description of St. John written by Nicholas Denys, who had visited Fort LaTour in the lifetime of its owner, and also on the evidence of maps which place Fort LaTour on the east side of the harbor of St. John. Naturally and properly he depends mainly on the testimony of Denys, which is that of a contemporary and eyewitness, and I shall follow his example in this respect. I therefore repeat the quotation from Denys, which appeared in Dr. Ganong's paper in the July issue of this magazine and which is as follows:

"This entrance is narrow, because of a little island which is to larboard or on the left side, which being passed the river is much larger. On the same side as the island there are large marshes or flats which are covered at high tide; the beach is of muddy sand which makes a point, which passed, there is a cove (or creek) which makes into the said marshes, of which the entrance is narrow, and there the late Sieur Monsieur de la Tour has caused to be made a weir, in which were caught a great number of those Gaspereaux which were salted for winter, [here follows an account of the fish caught]. A little further on, beyond the said weir, there is a little knoll where d'Aulnay built his fort, which I have not found well placed according to my idea, for it is commanded by an island which is very near and higher ground, and behind which all ships can place themselves under cover from the fort, in which there is only water from pits, which is not very good, no better than that outside the fort. It would have been in my opinion better placed behind the island where vessels anchor, and where it would have

"been higher, and in consequence not commanded by other neighboring places, and where it would have had good water, as in that which was built by the said late Sieur de la Tour, which was destroyed by d'Aulnay after he had wrongfully taken possession of it, etc."

Dr. Ganong in his paper proceeds to identify the various localities referred to by Denys, and up to a certain point I agree with him. I admit that the island referred to as being at the entrance of the harbor is Partridge Island, and the point of sand is the place now called Sand Point, the site of the deep water wharf of the Canadian Pacific railway. The cove or creek where LaTour had his weir is also easily recognized as that which runs through the Carleton flats from the Mill Pond. So far I am with Dr. Ganong in the work of identification, but when he proceeds to select "Old Fort" in Carleton, as the "little knoll" on which Charnisay built his fort, I must take issue with him. I am quite willing to admit that if Denys had stopped at this point, I might have accepted Dr. Ganong's theory, although I do not think that a "little knoll" is a good description of the site of the Carleton fort. Its elevation is slight, but, as a point of land, it must have been very prominent when Denys saw it before the Carleton flats were covered with wharves. That accurate observer would therefore have probably described it, as being the extremity of a point of land, if he had been referring to it in that connexion. On the other hand Portland Point is really no point at all, and the site of the fort there might very well be described as a "little knoll." Denys does not say that this "little knoll" was on the west side, but that it was "a little further on beyond the said

weir." Now the distance from Sand Point, where the weir was, to "Old Fort," Carleton, is 2,600 feet, while to Portland Point, it is 4,400 feet. As the shortest of these distances is just half a mile, it appears to me that the term "a little farther on" is quite as applicable to the longer distance as to the shorter. However, I am not concerned to find a location for Charnisay's fort at Portland Point or elsewhere, I only desire to show that it could not have been at "Old Fort," Carleton, where Dr. Ganong undertakes to place it, although to accomplish this, it becomes necessary for him to give the word "behind" a different meaning from that which it has in ordinary use. If "behind" and "in front of" were interchangeable terms I might yield to Dr. Ganong's views, but not otherwise.

If Harbor Master Taylor ordered a foreign sea captain to moor his vessel at Rankin's wharf, and, as a further direction, told him that Rankin's wharf was behind Navy Island, what chance would the foreign captain have of finding that locality? He would never find it from that direction, because Rankin's wharf is no more behind Navy Island than the South wharf is, or than any other wharf on the east side. Yet Dr. Ganong, in his paper, on the site of Fort LaTour, read before the Royal Society of Canada, and in his article in the New Brunswick Magazine, tries to make it appear that this locality is behind Navy Island. Denys says that he did not think Charnisay's fort well placed because it is commanded by an island which is very near it, and behind which ships can place themselves under cover from the fort. It would have

been, in his opinion, better placed behind the island where vessels anchor, and where it would have been higher and not commanded by other neighboring places. "Old Fort," on the Carleton side, is behind Navy Island, the island where vessels anchor, and there is no other locality in the harbor that answers this description. The text of Denys, which I quote above, leads us to infer that Fort LaTour was on that site, and I have no doubt that that was the case. At all events, Denys clearly shows that Charnisay's fort was not there, thus effectually disproving Dr. Ganong's theory. I must confess that it is a puzzle to me to understand how so accurate an observer and so candid a writer as Dr. Ganong has been able to bring himself to the belief that the term "behind" Navy Island could apply to Portland Point or any other point on the east side of the harbor.

The evidence of maps upon which Dr. Ganong relied to prove that Fort LaTour was on the east side of the harbor of St. John, has not gone far to establish his case. He says that all of the maps known to him, dated before the year 1700, which mark Fort LaTour, place it on the east side, "with one exception." This exception, however, is rather important, for it is the Duval map, which in the editions of 1653 and 1664 place it on the west side. A third edition of this map, issued in 1667, shows a fort on the east side, but does not name it. The first two editions of the Duval map are the earliest extant after the occupation of Fort LaTour in 1635, and therefore their authority is of the highest. Dr. Ganong thinks that the edition of

this map of 1677 is the most to be relied upon, because "second or later editions of maps, like later editions of books, are likely to be more accurate than the first." This proposition is an entire reversal of the rules of evidence which prevail in courts of law, and it is no more to be accepted than Dr. Ganong's attempt to make the word "behind" mean the same thing as in front of. The ancient deed proves itself; the ancient map is of higher authority than any modern edition of it, where the question to be decided is the site of a fort which existed when the ancient map was made but which had become a ruin before the later map appeared. Fort LaTour was completed about the year 1635. It was captured by Charnisay and destroyed in 1645. Its ruin was so complete that the latter found it necessary to build another fort on a different site to maintain his occupation on the River St. John. When LaTour again obtained possession of his property, after Charnisay's death, in 1650, we are left in doubt as to whether he occupied his old fort or the new one which Charnisay had built. When he sold out his rights in Acadia to Temple and Crowne, a few years later, he probably retained his residence in one of the forts while the English occupied the other. The fort in which he resided would likely be named Fort LaTour, whether it was the original Fort LaTour or not, and this may account for Fort LaTour being placed on the east side of the harbor in some maps. LaTour died in 1666 and soon after his death Acadia was restored to France under the terms of the treaty of Breda. No mention is made of Fort

LaTour in connection with the surrender of the various Acadian forts to the French, and therefore we may infer that this fort, in 1670, had become a ruin. Probably, however, Fort LaTour was the one occupied by De Marson or Soulanges, who from 1670 to 1678 commanded on the St. John river under the Governor of Acadia. When Villebon proposed to remove his garrison from Fort Nashwaak to Fort La Tour, in 1697, he found that the old fort was in fairly good condition, and he restored it and improved it. Three or four years later it was abandoned and the French garrison removed to Port Royal. It was, however, occupied by the French after the expulsion of the Acadians in 1755, and when the French were driven away from the St. John river, three years later, it was occupied by an English garrison and restored or rebuilt. The fort on the west side, therefore, notwithstanding some defects incident to its situation, was always preferred to the one on the east side. Indeed our knowledge of the latter is so slight that there are really some doubts as to whether there ever was a fort on the east side. The selection of the west side site by LaTour, by Villebon and by the English, is the best answer that could be given to Dr. Ganong's criticisms, based on it being commanded by higher ground and not being well supplied with water. It thoroughly commanded the entrance to the river, which no fort erected at Portland Point could do, because the range of cannon two hundred and fifty years ago was slight. Dr. Ganong supposes that an enemy's ship could lie in the channel and attack Fort LaTour, and he gives this as one reason why

Fort LaTour was located at Portland Point. He does not seem to be aware that the channel between Navy Island and the east side is 160 feet deep, that the current runs with fearful rapidity, so that no man, in his senses, would anchor his ship there unless he wished to have his vessel destroyed. The place where vessels anchor, referred to by Denys in his book, was on the Carleton side just north and west of Navy Island and close to the "Old Fort." That place could be reached at high water by vessels passing through the Buttermilk channel in spite of anything that the occupants of a fort at Portland Point could do to prevent them, and if they were armed ships they could lie to the north-west of Navy Island and cannonade Portland Point without being liable to suffer much damage themselves. This was the fatal vice of the Portland Point site—that it did not command the river and that it could be attacked by the ships of an enemy lying behind Navy Island. The description of Denys shows that this was why he did not think Charnisay's fort well placed, but preferred the site behind Navy Island where he leads us to infer Fort LaTour was situated.



CHAPTER VI.

THE American Revolution successfully vindicated some correct principles of government, but it was attended by circumstances which have cast discredit on the people of the revolting colonies. While able men in the press and on the public platform declared the justice of their cause and their right to rebel against usurped authority, riotous mobs acting under the orders of unscrupulous leaders, engaged in robbing their neighbours who remained loyal to the government, and, not content with taking their property, subjected them to personal violence, and, in some cases, deprived them of life. There is no doubt that in most cases, the object of these mobs was simply plunder, while the principal motive, which was behind the more regular proceedings of the men who procured the passing of prescription acts, was confiscation. Many of the persons who adhered to the government, were rich, and it was thought fitting that they should be deprived of their property. They were denied the right to hold any other opinions on the great questions involved, than those which were avowed by what claimed to be a majority of the people. Finally at the close of the war they were driven from the country of their birth and forced to seek new homes in a strange land.

The final outcome of the war was that all those colonies in North America, which had been settled

by Englishmen, were lost, while those which had been wrested from France, were preserved to the British crown. This was certainly a singular feature of the conquest, especially in the case of Canada, for it must be remembered that this colony had been in the possession of Great Britain less than fifteen years when the war commenced, and that France, the mother country of Canada, was the main instrument in enabling the revolting English Colonies to achieve their independence.

It certainly was not the fault of the Continental Congress that Canada was preserved to England, for one of the first efforts of the war was made by that body for its conquest. In the autumn of 1775, Montreal was occupied by an American army under Richard Montgomery, a renegade Irishman, who had received his military education in the British service. Another American force under Benedict Arnold, advanced against Quebec by way of the Kennebec, and a union with Montgomery's army was effected under its walls. Quebec, was for the moment, the only place in Canada held by a British force and, had the assault upon it succeeded, it might have been lost forever to England. But the assault failed, Montgomery was slain, and a few months later the Americans were driven out of Canada.

The invasion of 1775 was but the sequel of the address sent by Congress to the people of Quebec in October 1774. In that document the Canadians were invited to unite with the English Colonies and send delegates to Congress. Any one who wishes to understand the utter hypocrisy of the authors of

the numerous addresses sent out by Congress at this, time should read the Quebec address in connexion with another, which Congress then forwarded to the people of Great Britain in which the Government is savagely attacked for having passed an Act of Parliament giving freedom of religion and the French Civil Law, to the people of Quebec. After such a document had been made public, it required no small amount of assurance to enable the Americans to enter Canada proclaiming themselves the friends of the French people, their religion and their laws. Those of the French who were weak enough to trust the professions of the invaders, soon discovered that they were dealing with a people who had no sympathy whatever with their religion or their laws, and whose rapacity was extreme. The conduct of the Americans while in Canada, did more to estrange the French inhabitants from their cause, than any plan that the British Government could have devised for accomplishing such a result.

In the address to the people of Quebec, it was stated that the injuries of Boston had aroused and associated every colony, from Nova Scotia to Georgia. The statement was misleading so far as Nova Scotia was concerned, for at no period during the war, did its legislature act otherwise than with loyalty to the parent state. From the beginning of the troubles, however, the revolutionary party in Massachusetts did their best to detach Nova Scotia from its loyal position. As early as February, 1768, the House of Representatives of Massachusetts addressed the House of Assembly of Nova Scotia

inviting its co-operation in the remonstrances then being forwarded against the measures of the British Government. At a later period these invitations were renewed, but the Nova Scotia house took no notice of them, nor did it pay any heed to the non-intercourse resolves of Congress, which were forwarded to it in 1775. That year, however, the house seems to have thought it expedient to pass an address to the King and Parliament on its own account, and this was duly forwarded to England in the course of the summer. This address, which was very loyal in its tone, acknowledged the supremacy of Parliament, and made a number of recommendations with regard to taxation and other matters, some of which have rather a strange sound at the present day. This address was not forwarded through the Governor, but sent direct by the Speaker to the Lord Chancellor.

But, while the Legislature of the Province thus declared its loyalty and attachment to British institutions, there were in Nova Scotia, many disaffected persons who were determined, if possible, that it should cast its lot with the other British colonies. The population was very small, being estimated in 1772 at 17,000 souls, exclusive of Acadians, and in some of the settlements the disloyal greatly predominated. We have seen that, in some cases, whole townships had been settled by people from Massachusetts and Connecticut, and these people, who had kept up a constant correspondence with their friends in the colonies they had left, were, as a rule, in sympathy with the doings of Congress and hostile to the British

Government. But, while this was the rule, it was by no means of universal application and some of the firmest friends of British connection were to be found among the settlers from New England. On the other hand, most of the emigrants from the British Islands were strong in their loyalty and wholly opposed to the proceedings at Philadelphia. Yet, it is nevertheless true that the most dangerous enemy the British Government had in Nova Scotia was a Scotchman. The people of Truro, Onslow, and Londonderry, who, in 1777, refused to take the oath of allegiance, were all Presbyterians, the descendants of men, who, in 1719, went to New Hampshire from the North of Ireland. The active resistance to the royal authority in Nova Scotia was, therefore, in the main, confined to the New Englanders, while the English were universally loyal and most of the Scotch and Irish equally firm in their allegiance.

The Governor of the Province, Mr. Legge, was very unfit to face the serious difficulties now before him. Although a military man by profession, he seems, at first, to have given much more attention to matters of book-keeping than to those measures which were necessary to the proper defence of his government. At a time when every nerve should have been strained to strengthen the forts and garrison them with trusty men, he was engaged in searching up imaginary defalcations in the public accounts, some of which, if they had any existence, had occurred twenty-five years before. By this means he contrived to quarrel with most of the older officials and to incur the hostility of the leading

men of the Province, who felt themselves compromised by these pretended disclosures. He was at bitter feud with the Lieutenant Governor, Mr. Michael Francklin, who was certainly a very diligent and zealous official, and his conduct was generally complained of as arbitrary and tyrannical in the extreme. Legge was in fact that most disagreeable of characters, a busybody, without capacity except to insult and annoy those with whom he was associated in the government, the very reverse of the kind of man required for such a crisis, which demanded a governor with a firm hand and a conciliatory disposition. Fortunately the British Government discovered Mr. Legge's deficiencies in good time, and in 1776 recalled him to England, the duties of his office being performed by successive Lieutenant Governors in his absence. He was not permitted to return to America, yet such was the interest of his family, that he was allowed to hold the position of Governor of Nova Scotia until almost the close of the war.

When hostilities commenced in 1775, Nova Scotia was in no condition to resist any serious attack. Nearly all the soldiers had been sent to Boston and there were but thirty-six men in the garrison at Halifax. St. John, Annapolis and Fort Cumberland had no soldiers whatever, with the exception of a corporal's guard of three or four left to take care of the buildings. The militia of the Province had not been embodied, and there were serious doubts as to how far they could be made available for defence, in view of the sentiments of the people of many of the settlements. The

defences of Halifax were in a wretched condition, provisions were scarce and some of the inhabitants were in constant communication with the enemy. This was shown pretty clearly by the burning of a quantity of hay in Halifax, which was known to have been purchased for the use of the British cavalry in Boston, and by other acts of a similar character. The knowledge of the fact, that there were traitors in their midst, naturally made men distrustful of each other, and prevented that complete union which was necessary at such a time. Nor were these the only evils from which they suffered. The people of Machias, a Maine settlement near the borders of Nova Scotia, finding their struggle with a rocky and barren soil somewhat unprofitable, and their young men, as they stated, being out of employment, began to turn their attention to the business of privateering. Their first exploit was the capture, in June, of a small British armed vessel named the "Margaretta" which was lying at Machias, unsuspicious of any danger. A small English surveying schooner named "The Diligent" was soon afterwards surprised and captured in Buck's Harbour and fitted out as a privateer to sail in company with a Machias privateer named "The Liberty". These vessels were sent into the Bay of Fundy to commit depredations and to capture any vessels from Nova Scotia with supplies for the British troops in Boston, and Marblehead; and other towns on the New England coast also fitted out privateers, a number of which were constantly scouring the coast of Nova Scotia, plundering and insulting the inhabitants and

destroying property that they were unable to remove. These marauders, who figure as great patriots in most American histories of the war, were guilty of such infamous conduct as to provoke the remonstrances of men of their own party, who were none too scrupulous in the use of means for the purpose of annoying those who remained loyal to Great Britain. When even Colonel John Allen felt impelled to address the Massachusetts Council on the "horrid crimes" and "cruel depredations" committed by the privateersmen on the coast of Nova Scotia, the reader will be able to form some idea of the barbarous nature of the warfare which was waged on the unoffending people of Nova Scotia, whose only crime was attachment to the flag under which they had been born and beneath which they wished to die.

The unprotected state of the settlement at the mouth of the St. John, naturally made it an object of attack. In August, 1775, a privateer from Machias, commanded by Stephen Smith, entered the harbour and captured there a small brig laden with oxen, sheep and other supplies for the troops in Boston. Fort Frederick, which had been abandoned as a military post for several years, and the barracks connected with it, were then burnt, and four men who had been left in charge of the place taken prisoners. From that time until the erection of Fort Howe, in 1778, the settlers about St. John harbour were constantly exposed to attacks by raiding parties from the westward. Quite a number of persons had been settled on the western side of the river, in what is now the Parish of

Lancaster, under deeds from Hazen and White, who had a grant of the land there. The contemptible nature of the warfare that was waged by these Yankee patriots may be judged, from the fact that, these poor settlers were objects of plunder, and most of them were finally obliged to abandon their little clearings and seek safety among the settlements farther up the river.

The autumn of 1775 was a period of great alarm all over Nova Scotia. Many of the settlements had been attacked and plundered, and no man who had a residence near the coast, felt himself safe from robbery. Applications were sent in from nearly all the settlements, calling on the governor to send supplies of ammunition for the use of the militia, and these requests were, as a rule, granted, the work of distribution being entrusted to local gentlemen of standing, most of them officers in the militia. In Halifax the militia were called out to mount guard over the town at night. Light infantry companies to the number of one thousand men in all, were ordered to be formed at Halifax, Lunenburg, Annapolis, Cumberland and other places, and all persons were required to swear allegiance to the Crown. An organization which was entitled "The Association for Loyal Allegiance" was started in Halifax by Chief Justice Belcher, at the opening of the September quarter sessions in Halifax, and numerously subscribed to in Halifax, Kings and Annapolis counties. Finally, in December, martial law was proclaimed and all strangers coming into the Province were required to report themselves to the magistrates, under penalty of being considered as

spies. Ships of war were stationed in the Bay of Fundy and on the Atlantic coast, to protect the settlements and convoy the vessels carrying supplies to the army in Boston. Vigorous efforts were made to strengthen the defences of Halifax, the garrison having been reinforced by the arrival of about 350 men of the 14th and Loyal American Regiments, under Lieut. Colonel Gorham. Soon afterwards the 27th Regiment arrived, as well as some other detachments, so that the bringing of the militia from the out-countries to Halifax, which had been contemplated, became wholly unnecessary, and the Halifax garrison was able to spare a few regular troops for the other military posts throughout the Province.

It was fortunate that the services of the militia were not required just then, for some of them were little to be relied on in case of hostilities. Certain disaffected persons had spread among them the rumor, that it was the intention of the Government to send them to Boston as soon as they could be assembled at Halifax. Accordingly when Governor Legge proceeded to embody a part of the militia, he was met by remonstrances from many districts. Numbers of persons in Annapolis and Kings counties refused to serve, and long memorials against the militia law, were sent in from Truro, Onslow and Cumberland. The Onslow memorial asserted that the families of the signers would be exposed to ruin, if they were obliged to serve in the militia. The Truro petition urged the dangers to which the settlement would be liable, if the able bodied men were drawn away from it. The Cumberland

document took a bolder tone and declared it to be "a great piece of imposition" to ask those of them who were from New England to march against their friends and relations. This statement, as their subsequent conduct showed, was simply a pretence to ensure their being let alone until their treasonable designs were matured. Fortunately, there had been a couple of years previously, a large importation of settlers into Cumberland, from Yorkshire and other parts of the north of England. These men were intensely loyal, and they served, in a large measure, to keep in check the disloyal New Englanders in that fine country. The latter had been presented by the British Government, with splendid farms in what is perhaps the richest piece of territory in all North America, and they showed their gratitude by rebelling on the first opportunity against the government which had loaded them with favours, from which they had never received aught but kindness. This conduct, however, base as it was, was strictly in keeping with that inheritance of bad faith with the Government, which had descended to them, from father to son, from their remote Puritan ancestors.

The chief instigator of the Cumberland manifesto was, however, neither a New Englander nor a descendant of the Puritans. Among those who came out to Halifax, was a Scotch quarter-master, named William Allan, who had been in the fourth troop of Horse Guards. Allan brought with him, his wife and one child, a boy, who had been born in Edinburgh Castle a few weeks before the battle of Culloden. William Allan, after a short residence in Halifax, went to form one of the garrison of Fort

Lawrence, and afterwards resided in Fort Cumberland until the close of the war. He then settled on a portion of the abandoned Acadian lands of that district, and, in 1761, was one of four commissioners appointed to divide the forfeited lands in Cumberland. William Allan was a loyal man and a good citizen, and lived in Cumberland to a good old age, dying about the year 1790. His eldest son, John Allan, was a very different kind of man from his father. Restless and ambitious from his youth upwards, he early became estranged from his parent by his singular conduct. He was much fonder of talking politics, or spending his time among the Indians, than of attending to the legitimate duties of his station. He was much away from his father's house, and in 1767, before he was nineteen years old, got married, and resided for a year or two afterwards at Halifax. He then removed to Cumberland and received a fine farm from his father, on which he resided when the war broke out. From the first he seems to have been in correspondence with the Massachusetts Congress and, at their instance, took an active part in promoting disaffection in Cumberland. In 1775, he succeeded in having himself elected to represent the township of Cumberland in the Provincial Assembly, but he never seems to have taken his seat, as before the Assembly met, he was too much compromised to venture to Halifax. Allan seems to have been led to become a rebel solely by his ambition and vanity, but he miscalculated the forces opposed to him, and his attempts only ended in his own ruin, and that of most of those who were associated with him.



FIRST POLITICAL CARTOON.

Hon. Robert L. Hazen as portrayed by a local cartoonist of 1844

There were three other men of prominence implicated with Allan in the work of fomenting rebellion in Cumberland. The principal of these was Jonathan Eddy, a native of Norton, Mass., who had been the representative for Cumberland Township in the Assembly. The other two were Captain Samuel Rogers, who was the member for Sackville, and William Howe. It is worthy of note that among the disloyal men of that period in Nova Scotia, there were eight or nine who were, or recently had been, members of the House of Assembly. Eddy, who was the oldest of the conspirators as well as the most enterprising, conceived the bold plan of seizing Fort Cumberland and holding it for the American Congress. The fort was then without a garrison, and, had Eddy been able to obtain arms and stores, there can be no doubt that he might have held it for a considerable period. But while Eddy and his associates, among whom were a number of rebel spies from Massachusetts, were debating the question of ways and means, a detachment of troops arrived from Halifax to garrison the fort, and the Isthmus, for the time, was safe.

From the beginning of the troubles, refugees from the other colonies had been arriving in Nova Scotia in considerable numbers, most of them having been obliged to fly from their homes in consequence of the violence of the rebel mobs. Provision had been made by the Government for the relief of those people, but the majority of the first arrivals did not require any assistance, having saved something from the wreck of their fortunes. The evacuation of

Boston by the British forces under General Howe, however, caused the arrival of about fifteen hundred refugees who had been residents of that town or its vicinity, and who preferred to brave the hardships of exile, rather than trust themselves to the tender mercies of Washington and the Whigs. With them came more than three thousand soldiers, so that Halifax was full to overflowing, the rents of buildings were doubled, and provisions threatened to grow so dear that the governors were obliged to fix by proclamation, the prices at which meat, milk, butter and other necessaries should be sold. At this time two important changes took place in the government of the Province, Michael Francklin, who had been Lieutenant Governor for ten years, being removed, and Governor Legge being recalled to England to answer certain charges, which had been made against him by five members of the Council and a number of the principal inhabitants of the Province. Legge never returned to Nova Scotia, and the Government was administered by Commodore Mariot Arbuthnot, who was now appointed Lieutenant Governor. He proved himself a capable officer and, during the two years of his administration, exerted himself, with success, to preserve the province to the British Crown. The force at his disposal was by no means large, for General Howe, early in June transferred his army to New York, leaving only a few hundred men under General Massey to defend the province against domestic traitors and outside enemies. That it was successfully defended against both, reflects credit both on the Lieutenant Governor and

the officers in command of the troops. Where so large a proportion of the people was disloyal, great zeal and much energy were required to preserve Nova Scotia to the Empire.



CHAPTER VII.

THE agents of the Continental Congress were very active in Nova Scotia, but nowhere more so than on the Saint John river and in the Chignecto district. On the St. John river was a large and fertile territory, peopled by men from New England, who were nearly all in sympathy with the rebels, and capable of being easily defended against any British force that was then available. The Chignecto district was then justly regarded as the key to the defence of Nova Scotia, and it was also a country of great resources, and peopled largely by New Englanders, who desired the overthrow of British power. On the St. John the most active promoters of rebellion were Parson Noble, Jacob Barker, Dr. Nevers and Israel Perley. Noble wrote a letter to General Washington, setting forth the great importance of the capture of Western Nova Scotia, and offering to assist in that measure in any way that he could be useful. Washington had no men to spare for this enterprise, but Noble and his associates were so full of zeal that they thought they could place the St. John river under the Rebel Government without outside help. Accordingly a meeting was convened at Maugerville on the 14th of May, 1776, at which most of the inhabitants were present. A series of eight resolutions were passed, condemning

the claim of the British Parliament to pass laws binding on the colonies, and expressing the desire of the people to place themselves under the government of Massachusetts, and their readiness, with lives and fortunes, "to share with them the event of the present struggle for liberty." It was also resolved to appoint a committee of twelve, who were authorized to make application to the Massachusetts Congress for relief, and to conduct all matters, civil and military, in Sunbury county until further regulations could be made. Another resolution bound all the inhabitants to obey the orders of this committee, and to pay whatever sums might be necessary to carry this project into execution. Thus did the people of Maugerville and the adjacent townships issue their declaration of independence and withdraw themselves from under the protection of the British flag.

These resolutions were drawn up in a paper addressed to the Massachusetts Assembly and signed by one hundred and twenty-five of the inhabitants. Only thirteen of the residents of the river refused to sign it, and of these, nine resided at the mouth of the river. The meeting also voted that "we will have no dealings or connection with any person or persons for the future, that shall refuse to enter into the foregoing or similar resolutions." It would appear from this that the system of "boycotting" was in force in America long before Captain Boycott's day. Two members of the committee, Asa Perley and Asa Kimball, were selected to go to Boston, to present the Maugerville document to the Assembly at Boston. A resolve was passed by that body

ordering the Commissary General to deliver to them one barrel of gunpowder, three hundred and fifty flints and two hundred and fifty pounds of lead, and they were authorized to purchase forty stand of arms. This is apparently all they got from their brethren in Massachusetts, so that they seem to have parted with their allegiance at a very cheap rate.

The previous February Washington had sent a letter to the Indians of the St. John river and other eastern tribes, asking their friendship and support in their contest with the British government. The effect of this letter was to set those red-skinned vagabonds to plundering all persons who were thought to be favorable to the government, and the Maugerville people were afraid that when the Indians had done all they could against the "Tories", the other residents of the river might share the same fate. Messrs. Perley and Kimball were therefore directed to represent this to the Massachusetts Assembly, and to ask that some person of consequence, be sent among the Indians to keep them quiet. The fact that Washington was tampering with the eastern Indians at so early a period in the Revolutionary struggle, causes the fulminations of Lord Chatham and others, against the employment by the British of Indians in the war, to sound rather absurd. The Americans employed all the Indians in the war that they could persuade, to take their side. The trouble was that they had treated the Indians so badly, but few of them were willing to assist them.

Among the settlers of Chignecto was Jonathan Eddy, a native of New England, and a person of

considerable energy and courage. He was chosen to represent the township of Cumberland in the Legislature of Nova Scotia, and seems to have stood well with the settlers among whom he lived. Eddy was from the first a sympathizer with the revolutionary party, and he succeeded in persuading most of his neighbours to adopt his opinions. He formed the bold design of seizing Fort Cumberland and holding it for the rebels, and early in the summer of 1776 took his departure for Massachusetts in company with two of his neighbours, Wiiliam Howe and Samuel Rodgers. Eddy declared to the Massachusetts Assembly his ability to capture Fort Cumberland with but little assistance, and he obtained from them a commission as Lieutenant Colonel and authority to raise troops for the Cumberland expedition. Eddy expected to obtain men at the various settlements, so that when he left Boston he was accompanied only by two men, William Howe and Zebulon Rowe, both residents of Cumberland. At Machais he obtained about twenty men and a few more at Passamaquoddy. He then went to Maugerville where he was joined by a captain. a lieutenant and twenty-five men, and also by sixteen Indians. This brought his whole force up to seventy-two men, and, embarking in whale boats and canoes, Eddy's little army sailed up the Bay towards Fort Cumberland. At Shepody, Eddy landed and captured Captain Walker and twelve men of the Fort Cumberland garrison who were stationed there. Eddy then proceeded to Memramcook where he induced a number of French Acadians to join him. From thence they marched to

Sackville, where he met the local rebel committee who were much disappointed to find Eddy's force so small and unprovided with artillery. Nevertheless, believing that Eddy would soon receive a reinforcement under Colonel Shaw, they joined the invaders to the number of more than one hundred. Eddy's next exploit was to capture a sloop laden with provisions for the garrison, and having on board a sergeant and twelve men. The capture of this vessel by the rebels was not known in Fort Cumberland for some hours after it was effected, and a number of men, among others Captain Barron, the engineer of the garrison, and Mr. Eggleston, the chaplain, were captured when on their way from the fort to the vessel. Fort Cumberland was under the command of Lieutenant Colonel Joseph Gorham of the Loyal Fencible Americans. Its condition was extremely weak, the garrison, including the sick, numbering only about 200 men. The artillery consisted of three nine-pounders and three six-pounders, imperfectly mounted. Ammunition was very scarce, and the capture of the provision sloop had reduced the supplies of the garrison to a very low ebb. Gorham was not capable of meeting a resolute attack from a well trained and well equipped force, but Eddy's means of attack were wholly insufficient for the task he had undertaken. His whole force, if we are to believe his own statement, did not exceed 180 men, and he was without cannon and therefore forced to rely on an assault. On the 10th November Eddy sent Colonel Gorham a formal summons to surrender, and on this being declined, attempted an assault on the fort on the night of the

12th. This assault failed, and it could not have been very much pressed, for Eddy states his whole loss to have been only one Indian wounded. Eddy's men attempted to set fire to the buildings in the fort by setting fire to houses outside them, the wind favored their purpose, but their efforts all failed owing to the vigilance of the garrison. This warfare was continued for about a fortnight, Colonel Gorham in the meantime making several attempts to communicate with the authorities at Halifax. At length, afrer a number of failures owing to his messengers being intercepted by the enemy, Lieutenant Dixon, a half pay officer, volunteered for this dangerous service and succeeded in reaching Windsor in an open sail boat. The result was that on the 27th of November, His Majesty's ship "Vulture" appeared off the harbour, and the same day Major Batt and Captain Studholm landed with Captain Branson and his company of marines. On the following day Captain Pitcairn landed with the remainder of the force which came in the "Vulture", numbering ninety officers and men. Early next morning this force, with a detachment from the garrison attacked, the rebel camp and completely routed them, pursuing them some four or five miles up the road to Baie Verte. In the pursuit a number of houses belonging to the rebels were burned. A detachment of one hundred men was ordered to proceed to Westcock and Memramcook to cut off the retreat of the rebels and destroy their boats, but before the men could march, a letter was received from Mr. Charles Dixon of Westcock stating that most of the people of that district who had been in arms were

convinced of their error and desirous of surrendering to the King's mercy. Upon this Colonel Gorham issued a proclamation offering a pardon to all rebels who should come in and surrender their arms within four days. The only persons excepted from the benefits of this offer were Eddy, Allen, Howe, Roe and Rodgers, for whose apprehension large rewards were offered. Upwards of one hundred persons took advantage of this offer of amnesty and surrendered within the time limited. They claimed that they had been coerced into joining Eddy, by fear of the Indians of whom he had several hundreds with him. This excuse may have been valid with respect to some of the inhabitants, but there is too much reason to believe that the majority of them acted voluntarily, and that Eddy's expedition was brought about by their own intrigues.

Eddy fled from Fort Cumberland to Maugerville by the old French portage road from Chignecto to the St. John, the streams being then frozen over. He was accompanied by the Cumberland Rebel Committee of seven and by 37 other inhabitants of Cumberland. In addition to these, there were his own men from Machias, the contingent of 27 from the St. John River, sixteen St. John Indians and thirteen French Acadians under Capt. Boudrot. They formed a large party and they suffered great hardships in traversing the forest at that inclement season of the year, for it was December. Eddy does not tell how long it took his party to reach Maugerville, but it is probable that the whole month of December was thus employed, for he fled from before Fort Cumberland on the 29th

November, and it was the 3rd January before his report of his expedition, to the Massachusetts House of Representatives, was written at Maugerville. The people of that township who had a few months before dedicated their lives and fortunes to what they called the cause of liberty, were obliged to maintain these Cumberland refugees during the whole winter, while the families of the rebels who had been left in Cumberland were in a very miserable condition. Eddy's invasion was a ridiculous fiasco, but it had its tragic side in the ruin and exile of so many persons, who had no need to take part in a rebellion, and in the suffering of their families.

The authorities at Halifax were on the alert in the spring of 1777 to counteract the work of the rebels. The report of the Attorney General showed, that upwards of two hundred persons in Cumberland had been in arms against the government, and it was resolved to tender the oath allegiance to all in that district who had not taken it. Three justices of the peace were sent to Truro, Onslow and Londonderry to tender the oath of allegiance to all the settlers there. Only five persons in these three places were willing to take the oath, and it was resolved that the others should be proceeded against. On the St. John River the state of affairs was still more serious, for the people had been in rebellion for almost a year, they had sent a detachment to assist in the capture of Fort Cumberland, and during the winter they had sheltered the Cumberland rebels and their leader Colonel Eddy. Evidently it was necessary that the

authority of the King should be re-established on the St. John. To effect this, Colonel Gould, a member of the council, was sent to the St. John early in May in the ship of war "Vulture". On his arrival he found a boat there from Machias, on board of which were a number of men under the command of William Howe, a Cumberland refugee, and John Preble. There were also two schooners laden with supplies for the Indians which were intercepted. Howe and Preble and their men fled to the woods but their boat was taken. Gould immediately sent a letter to the inhabitants of St. John offering them a pardon and the possession of their properties on condition of their taking the oath of allegiance. This letter was written on the 9th May and on the 12th a reply was sent by the inhabitants accepting Gould's terms. In the course of a few days the oath was taken by all the inhabitants of the St. John, with the exception of three who fled the country. The Maugerville people excused their rebellious conduct by the plea that they had been induced by threats to submit to the government of Massachusetts, and Gould pretended to believe this too transparent story, and the St. John people, as a body, gave no more trouble to the government during the war.

John Allan, of whom mention has already been made, again appears upon the scene at this time. Allan fled from Cumberland, where he had resided, in August, 1776, and on arriving at Machias met Eddy, who was on his way to Nova Scotia to make his attempt on Fort Cumberland. Allan, after vainly trying to induce him to give up his rash

expedition, proceeded to Boston, and before the end of the year, was at Washington's head quarters on the Delaware. He laid his plans before the Continental Congress and was appointed superintendant of the Eastern Indians with the rank of a Colonel of Infantry. The object of this appointment was to enlist the St. John and Passamaquoddy Indians on the side of the rebels, and to obtain control of the St. John River, which having an interior line of communication with Maine, could always be reinforced from that quarter, and held by a sufficient force. This might have been accomplished if Allan had been more prompt in his movements. If he had reached St. John before Colonel Gould, he might have been able to confirm the weak-hearted residents of the river in their rebellious views and obtain their active support. Had this been done, it would have required a large force to win back the lost territory. As it turned out Allan reached the St. John after Colonel Gould had departed, when it was too late to accomplish anything, for the inhabitants had renewed their allegiance to the King. With three or four exceptions they kept aloof from him and he did not seek their company,

Allan's whole force, with which he prepared to seize the St. John River numbered just forty-three men, according to his own statement, and he expected a reinforcement under Col. Shaw which when it reached him, numbered only forty-five soldiers. More than half of Allan's men were former residents of Cumberland, who had fled with Eddy the previous Autumn. He waited at

Machias until he heard of the departure of Col. Gould and the "Vulture" and then proceeded to St. John, which he reached on the 2nd June. His journal written by his Secretary Lewis F. Delesdenier, is still extant and contains a very full account of all his movements. His first act on reaching St. John was to make Messrs. Hazen and White prisoners. These gentlemen were afterwards released and again taken. On proceeding up the River, Lewis Mitchell, a man whose active loyalty was notorious, was captured. A few days later Mitchell contrived to escape and, hastening to Halifax, gave the alarm to the authorities which brought a British force at once to the St. John River. While on the river Allan resided at Aukpaque, the Indian settlement, and most of his time was taken up with long winded palavers with the red men. These wily sons of the forest were much more anxious to obtain goods from both sides than to fight for either; throughout the war they acted the part of greedy mercenaries. Most of Allan's men were kept at the mouth of the River for the purpose of preventing the British from landing there. The British arrived in force on the 30th of June and immediately drove Allan's men away, killing and capturing a number of them. The British naval force on that occasion was under the command of Capt. Hawker of the "Mermaid," and he had with him the sloops "Vulture" and "Hope." The Americans fled up the River and were pursued by the British. Allan was obliged to escape into Maine by way of Eel River and the St. Croix Lakes, arriving at Machias after a toilsome

journey of more than three weeks. Allan was accompanied not only by his own men, but by most of the St. John Indians with their families, the whole numbering about five hundred persons, men, women, and children. It was Allan's aim to keep the St. John Indians under his control, hence this exodus, but the result was disappointing, for they achieved nothing for him. Soon after Allan reached Machias, that place was attacked by a small squadron, under Sir George Collier, and the mills and magazines there destroyed, but the place was not captured, owing to the lack of troops, which were refused by General Massey, on the plea that he could not spare them from the defence of Halifax. This was a serious blunder, for Machias continued to be a rebel nest for the remainder of the war. If it had been occupied, as it might easily have been, the boundary line between New Brunswick and Maine would have been very different from what it is now.

The outrages committed by American privateers on the coast of Nova Scotia, at this time, and throughout the war, were very discreditable, and partook of the nature of piracy rather than legitimate war. No settler who lived near the coast was free from danger. At any time he was liable to have his house plundered and burnt, his cattle stolen, and his fields ravaged by these robbers. Their depredations extended to every part of the province. Mr. Davidson's extensive fishery on the Miramichi was broken up by them, and the same fate befell all the fishing establishments on the North Shore. In the Bay of Fundy they committed great outrages in

spite of the efforts of the fleet to prevent them. The establishments of Messrs. Simonds, Hazen, and White were plundered more than once, and Mr. Simonds removed to Maugerville to escape their visits. All the settlers of the township of Conway suffered from their depredations and most of them were forced to abandon their farms. Under the circumstances it became necessary for the Halifax authorities to take some action for the purpose of enabling the St. John settlers to live in peace. Accordingly, late in the Autumn of 1777, Major Studholme was sent to the St. John River with fifty men, and ordered to establish himself there. He took with him a frame block-house, and four six-pounders, and took possession of a high and rocky hill on the east side of the harbor on which he erected a fortification, which he named Fort Howe, in honor of the Commander in Chief of the forces in America. Studholme who was an able man, and full of energy, speedily made his position secure. A short time before his arrival, a privateer, mounting eight guns, commanded by one Crabtree, had been at St. John, and had robbed the truck house of Messrs. Simonds, Hazen, and White, of everything it contained, including the pledges given by the Indians. These were carried to Machias, and delivered to Col. Allan. Crabtree was again sent to St. John to complete the destruction of the settlement, but before he got there Studholme had arrived. Crabtree fled as soon as he became aware of Studholme's presence, for robbery was more to his taste than fighting, and St. John was no more molested. Studholme remained at Fort Howe,

became identified with the new province which he assisted in establishing, and is buried in Kings County, in the parish which is named after him.

Early in the spring of 1778, Studholme was reinforced and his post was now regarded as secure from any attack. His only anxiety now, was in regard to the attitude of the Indians, who were constantly being stirred up to do mischief, by the agents of Colonel Allan. During the summer, they sent Studholme a letter which amounted to a declaration of war, but owing to the efforts of Colonel Franklin, the Indian agent, and their priest, Father Bourg, they were kept quiet and induced to make a treaty of peace with the British, at Fort Howe, in September, 1778. Upwards of $2,000 worth of presents were given the Indians on that occasion, and a large sum additional was expended in entertaining them. In this treaty were included the Micmacs of the Miramichi and other places on the North Shore, as well as the Malicetes of the St. John. Allan still continued his efforts to detach the Indians from their alliance with the British but without success. The Indians remained quiet during the rest of the war. Allan's presence at Machias was also felt in one or two insignificant raids that were made on the settlers up river. In the autumn of 1779, it was reported, that a party of Indian rebels from Machias had captured a vessel at Maugerville, and plundered two or three of the inhabitants, after which they made off. These attacks were to be expected so long as the Indians from Machias could reach the Upper St. John by way of Eel River. To guard against them and

protect the settlements, a block house was built at the mouth of the Oromocto River and a small garrison placed in it. It was named Fort Hughes, after the Lieutenant Governor of Nova Scotia, who had succeeded Arbuthnot. It was placed under the command of Lieutenant Constant Connor.

The St. John River now became an important part of the line of communication between Halifax and Quebec. The use of this route was first suggested by Lieutenant Governor Arbuthnot to General Haldimand, who was in command at Quebec. This route was utilized until the end of the war, not only for despatches going from Quebec to Halifax, but for communications between Quebec, and the British army in New York. The persons chiefly employed in the arduous work of carrying these despatches, were Lewis Mitchell and Louis Mercure, a French Acadian. It is worthy of note, that a message sent by this route, by Lieutenant Connor from Oromocto, gave General Haldimand the first information of the surrender of Lord Cornwallis.

The story of the war of the Revolution is one which no loyal citizen of the British Empire can regard with any pride, and which contains many episodes at which honest Americans must blush. The bad faith displayed by Congress in refusing to carry out the terms of the surrender of the British army at Saratoga, shows that there were not many honest men in that famous body. Instead of being sent to England as had been promised, they were marched to Virginia and kept there in camp for several years, to the great financial benefit of

Thomas Jefferson whose plantation was in the neighborhood. The treatment of the Loyalists by their Whig neighbors was also another disgraceful feature of the war. These people were persecuted and harassed in every possible way, driven from their homes, their property destroyed or confiscated and subjected to personal violence, and in many cases to imprisonment. As a result of these persecutions large numbers of Loyalists came to Nova Scotia during the war. When Boston was evacuated in March, 1776, about fifteen hundred Loyalists embarked in the transports and landed at Halifax. Some of these people returned to the Colonies and took part in the contest on the side of the King, but many remained in Nova Scotia. From that time until the end of the war refugees were constantly arriving in Nova Scotia and most of them took up their abode in that province. When the Loyalist emigration at the close of the war took place, they sought to make a distinction between themselves and the Refugees, who had not remained in the thirteen colonies to fight it out. It was almost a matter of reproach to be a Refugee, and the descendants of Loyalists and Refugees kept up the argument for two or three generations. In my opinion, there was no just ground for this distinction. Whether a man was a Loyalist or a Refugee depended largely on the colony he lived in. In Massachusetts, and indeed in most of the New England States, the Loyalists were so much in the minority that they had no chance to make head against the current. There was nothing for them to do but to escape to some other land where their

opinions would not expose them to the danger of being tarred and feathered or perhaps hanged. In New York, on the other hand, the Loyalists were numerous, they were protected by the King's armies and they could remain in the country without danger, at least on equal terms with their enemies. The fact that they were Loyalists and not Refugees was due to their environment as much as to their own merits. They were, as men generally are, the creatures of circumstances, and the men who were exiled from New York, in 1783, are entitled to no more praise for their Loyalty than the men who fled from Boston seven years before.

CHAPTER VIII.

THE surrender of Lord Cornwallis and his army at Yorktown in October 1781 practically brought the war of the American Revolution to an end. There was indeed some fighting in the Southern Colonies after that date, but no one but the mis-guided King, believed that the Yorktown disaster could be retrieved, and even the King was forced in the course of a few months, to yield to the logic of events. This dull witted and obstinate monarch had succeeded in the course of a few years, in reducing his country from the proud position which it occupied under the great Pitt, to a most miserable condition. Having engaged in a quarrel with the colonies which was altogether unnecessary, he had conducted the war in the most imbecile fashion, placing the command of the armies in the hands of court favourites to the neglect of men of ability. The only British General who throughout the war showed energy and ability, was Lord Cornwallis, and he was very far from being a military genius. Howe and Clinton, who held the Chief Command in succession, were total failures, and Sir Guy Carleton, who alone showed any capacity, was neglected and superseded by Burgoyne who led the British army into the surrender at Saratoga, and thus paved the way for France and other European powers to espouse the cause of the rebels.

The fortunes of Great Britain have never been so low as at the time of the surrender of Cornwallis, and during the year that followed it. The nation had met with defeats and losses in every quarter of the world, except in India. She had lost the command of the seas, and English ships could no longer venture into the Mediterranean. Gibraltar was beseiged by the combined forces of France and Spain, and it seemed as if England herself might be invaded with success. Great Britain had not a single friend in Europe to whom she could look for help or even sympathy. From the beginning of the war France had been secretly assisting the American rebels with arms and money, while all the while professing the greatest friendship for Great Britain. Louis the XVI. who was as dull-witted and deceitful as George the III., but without his courage, had conceived the idea of destroying the power of England by means of this rebellion in her colonies. This brilliant conception ended in his blood-stained head being dropped into a basket at the foot of the guillotine a few years later. The dissimulation and dishonesty of this degenerate son of Saint Louis had their proper reward. After the surrender at Saratoga, the King of France thought the time had come to throw off the mask and enter into an open alliance with the American rebels. By a treaty made in February 1778, France agreed to give armed support to the Americans and the latter bound themselves never to entertain proposals of peace from Great Britain until their independence should be acknowledged, and never to conclude a Treaty of peace except with the con-

sent of France. A war with France immediately followed, and from that time until the end of the war, Great Britain had to fight the French as well as her own rebellious subjects. In 1779 Spain entered the lists against Great Britain, and in April of that year, France and Spain concluded a Treaty which had for its principal object the invasion of England, and which also embraced the recovery of Minorca and Gibraltar. The attempt to invade England was actually made in June, but it failed owing to dissentions between the French and Spanish admirals, whose united fleets numbered more than sixty ships of the line. Spain, although foiled in her invasion project, continued to wage war against Great Britain until the end of the American contest. For nearly four years the fleets of France and Spain besieged Gibraltar, and yet in the end they failed to capture it. The enemies of Great Britain increased in number as the war progressed. The, so called, Armed Neutrality of 1780 which embraced the Northern powers, Russia, Denmark, Sweden, Prussia and Holland, was aimed directly at England and was intended to hamper her efforts on the ocean. In the latter part of that year Great Britain declared war against Holland, so that she was now at war with the three leading maritime nations of Continental Europe. The maintenance of such a struggle imposed a very very severe strain on the resources of the nation, and it was hopeless to expect that America could be conquered while England was fighting a world in arms. The great straits to which she was reduced by having to face so many enemies at once, had an

influence on the peace negotiations which was very detrimental to those in America who had stood by the Mother Country during the war. Had it not been for Rodney's great victory over the French fleet in April, 1782, and the overthrow of the Spaniards before Gibraltar, England would have been in a still worse position to conclude a treaty of peace.

The nation was unfortunate in its choice of a commissioner, for Mr. Oswald, the British representative at the peace negotiations, was no match for the men opposed to him. One of the worst effects of his management was in the description of the boundary between the new nation and Nova Scotia, which was of so vague a character that the actual boundary was not settled for more than half a century. Mr. Oswald also gave away the fisheries of the colonies which remained loyal to the Crown, by permitting the fishermen of the Colonies which had become independent to fish in British waters as they had done before the war. But the feature of the treaty for which he was most censured was for consenting to an arrangement by which the Loyalists were not only deprived of any compensation for the losses they had sustained, but exposed to the vengeance of the State Legislatures, which had passed acts of banishment and confiscation against them. All that Oswald obtained by the treaty for the Loyalists was that Congress would recommend to the Legislatures of the States to provide for the restitution of all estates, rights and properties which had been confiscated, belonging to British subjects, and the estates of persons

resident in districts in possession of His Majesty's armies who have not borne arms against the United States. Also that there should be no future confiscation on account of the war, and that no person should thereafter suffer loss or damage in his person, liberty or property. Congress made the recommendations mentioned in the Treaty, but the legislatures of the several states paid no attention to them. No one believed that it was ever intended that they should be carried out in good faith, and Congress sheltered itself behind the plea that it had no authority to control the state legislatures. The same plea has been put forward since to excuse breaches of the law, and of good faith on the part of the States.

As the states would not mitigate the severity of their laws against the Loyalists, and as confiscation of property, banishment and even death were decreed against those who had taken the side of the King, there was nothing for it but that the Loyalists should go into exile. Even if the laws had been modified, in favor of the Loyalists, they would probably have been inoperative, for Whig Committees had been formed in every town and district, even in Philadelphia itself, the capital of the Confederation, to harry and distress the Loyalists and drive them out of the country. Sabine, partizan as he is, calls this action on the part of the violent Whigs "a great crime", and he well says, that the people of the United States have paid dearly for it. By that act the Whigs made it impossible that the ambition of the United States to possess the whole continent should ever be

realized unless by a war of conquest. The Loyalist element in Canada will always be strong enough to prevent the annexation of this country to the United States.

The Loyalists had good reason to complain of the manner in which they had been surrendered to their enemies. They truly said that they had stood by the Crown, but the Crown had not stood by them. But allowance must be made for the desperate condition to which the country had been brought by the policy of this foolish monarch, who was determined to be a King. The Loyalists had to be sacrificed or the war continued, and to continue the war, even for a few months, would cost far more than it would to compensate the Loyalists in full for all their losses. Had the war been against a single power, the conduct of the Government in making the peace they did, would have been without excuse, but with all Europe arrayed against Great Britain, a peace on almost any terms appeared to be a necessity.

The great emigration of Loyalists to Nova Scotia took place from New York. That place was held by Sir Guy Carleton, until late in the year 1783, for the express purpose of enabling the Loyalists to be gathered together and shipped beyond the reach of the violent Whigs. Nova Scotia had early been fixed upon as the best place of refuge for the exiled Loyalists, for it had abundance of good land, and its climate was not dissimilar to that of New England. With good management all the Loyalists might have been settled in Nova Scotia, without undergoing great hardships, but as the work was

done, it involved a great deal of unnecessary suffering on the part of the exiles. Perhaps an excuse for this may be found in the hope or belief that the articles in the Treaty, in favor of the Loyalists would be respected, and when it was discovered that no regard was being paid to them by the state legislatures, it was too late to make efficient provision for the reception of the Loyalists into Nova Scotia.

The governor of Nova Scotia at this time, was Col. John Parr, an elderly officer of the army, who had seen some service. Winslow describes him as "a man of the most jealous, difficult and impracticable temper," but this, perhaps, is stronger language than the facts warranted. Parr was elderly, he was selfish and he was not a good organizer, so that he was not capable of doing the work that was imposed upon him, and settling 35,000 Loyalists in Nova Scotia, in the course of a few months. Such a task required far more zeal and energy than he possessed, for it was an enormous one, under the most favorable conditions, and rendered doubly difficult by the peculiar circumstances under which it had to be undertaken.

When it became certain that the Loyalists would not be permitted to remain in the old colonies, they formed themselves into Associations for the purpose of making arrangements for their removal to Nova Scotia. The first requisite was to obtain land upon which to settle, and exploration committees were appointed to visit Nova Scotia and ascertain in what localities the Loyalits could best be accommodated. In the Autumn of 1782, Messrs.

Amos Botsford, Samuel Cummings, and Frederick Hauser, were sent to Nova Scotia by the New York Loyalists, for the purpose of making settlements. They received full instructions as to the plan they were to follow, and the facts they were to ascertain. Their report is still extant, and it shows that they visited the district about St. Mary's Bay and the lower part of the St. John River. Their report was favorable, and in the Spring as many Loyalists as could get away prepared to take their departure from New York.

The first wave of the vast human tide that was to sweep into Nova Scotia, reached it late in the autumn of 1782. Sir Guy Carleton, who was in command in New York, sent five hundred Loyalists to Annapolis, where they arrived on the 20th of October, in transports. They were followed by five hundred Loyalists from Charleston, who arrived in December in 1782. These poor people were in a very destitute condition and there was some difficulty in providing them with proper shelter. They suffered greatly from the cold, having just come from the South. Their case was like that of many others who afterwards arrived in Nova Scotia, and had to be supported at the public expense. Some of the Loyalists, notwithstanding their losses, had some little means left, while others were wholly destitute, and could do nothing for themselves. The Loyalists embraced many classes, officials who held offices under the Crown in the old Colonies; men who had served as officers or privates in the various Loyalist Corps during the war, and men in civil occupations, who had lived within the

British lines and whose only offence was that they had not become rebels. Among these men, there were, as may be supposed, many degrees of merit with respect to their loyalty, but they had all become obnoxious to the rebels, and were now involved in a common misfortune.

Sir Guy Carleton, who held the command in New York at the close of the war, devoted all his energies to the work of getting the Loyalists out of the country. They had every reason to feel grateful to him for his exertions on their behalf, for he was working with very inadequate means, both provisions for their sustenance and transports to carry them away, being difficult to obtain. The St. John River early attracted his attention as a suitable place for the settlement of the Loyalists, and the favorable report of Messrs. Botsford, Cummings and Hauser, inclined many of them to go there. Yet there were difficulties in the way, for all the lands on the lower part of the river below St. Anne's were occupied either by settlers or squatters, or had been granted in large blocks to officers and others many years before. The same difficulty existed in other parts of Nova Scotia, but to a less extent. In April, 1783, a statement was prepared by the governor, showing the extent of the available lands in Nova Scotia. The total area of the province was estimated at 26,000,000 acres, of which 5,416,849 acres had been granted prior to 1773, leaving 20,583,151 ungranted. Of this area, two fifths was estimated to be unfit for cultivation, leaving 12,349,891 acres ungranted that were fit for cultivation. These figures, on their

face, did not look so bad, but it had to be borne in mind in considering them, that the granted lands included all the valuable marsh lands of the province, nearly all the intervale lands of the St. John and other large rivers, and most of the lands that were easily accessible by water. Under these circumstances it became necessary for the Crown, by escheat proceedings, to resume possession of these lands which had been granted, where the conditions of the grant had not been complied with. It was only in this way that land could be obtained for the Loyalists.

The first great emigration of Loyalists to the St. John was in the spring of 1783. On the 26th April a large fleet of transports left New York with 7,000 Loyalists bound for various parts of Nova Scotia. Of these, about 3,000, embarked on twenty vessels, were for St. John. The leading ships of the fleet reached their destination on the 10th May and the others speedily followed. They anchored close to the shore in a convenient position to land the people and their effects; some were landed as fast as they arrived. At that time, the peninsula on the east side of the harbour on which the business portion of St. John now stands, was a dense wilderness, covered with cedar trees and bushes. Masses of barren rock were interspersed with swamps and there seemed to be no good soil anywhere. Nothing could be more cheerless than the prospect, and the hearts of the exiles sunk within them as they viewed the scene and contrasted it with the well cultivated country they had left behind them. The government for which they had

fought and suffered had undertaken to provide them with the means of beginning life anew in Nova Scotia. They were to receive grants of land, provisions for one year, allowance of warm clothing, farming implements, medicine, window glass, nails and other articles to enable them to build their houses, and also arms and amunition. These were liberal arrrangements and, if it had been possible to carry them out promptly there would have been no ground for complaint. The first comers fared the best, because they had their choice of the land and a considerable proportion of them were able to go upon their land at once and build themselves houses. Where this was the case the following winter found them well sheltered and comfortable, and in a position to cultivate their land with effect the following year. But all were not so fortunate as this and as the people crowded in, the difficulty of placing them on their lands became greater. In the latter part of June, two thousand more Loyalists arrived at St. John and in September, upwards of three thousand reached St. John from New York, including a large number of provincial regiments, which had served in the war and which were to be disbanded on their arrival. During the year large numbers had arrived at other points in Nova Scotia, many thousands going to Shelburne. On the 4th October, Governor Parr wrote that 20,000 Loyalists had arrived in the Province and on the 16th December, he estimated the number at nearly 30,000. A return made out in New York for the information of Sir Guy Carleton and dated October 12th, places the number of Loyalists at

29,278, of which 14,162 had gone to St. John. This included 3,396 persons belonging to the British American Regiments, not disbanded, and 384 men who had been previously discharged from the regiments. But at the foot of this return is the statement that it is probable the number who had actually gone, would fall far short of the numbers given. The muster of disbanded troops and other Loyalists made a year later showed that there were 9,260 on the St. John River, 1,787 at Passamaquoddy and 856 in the Cumberland district. The total number of Loyalists in New Brunswick and Nova Scotia was 28,347.

The peninsula on the east side of St. John Harbour had been laid out in lots and named Parr Town, in honor of the governor. The settlers as they arrived drew lots and were supplied each with 500 feet of boards to assist them in building a house. In this way a town was speedily built at St. John, for the people engaged in the work with wonderful industry, but it was soon apparent that it would have been much better if they could have been at once placed on their farms. Any town built at St. John had to depend on the country for its support, and could therefore only be of limited size. It seemed to be forgotten that there would soon be no work for the large population of the town and that the energies of the people were being misdirected. The blame for this must rest on those who, by their dilatory conduct, prevented the settlers from going on their farms. The delay caused a great deal of dissatisfaction among the Loyalists, and another matter became public about this time

which was the means of exciting divisions among the Loyalists themselves which were not set at rest for many years to come.

The grants to the Loyalists had been limitod in extent, usually 200 acres for each person, which, although sufficient for a farm, would not make a large estate. But in July 1783, Abijah Willard and fifty-four others presented a petition to Sir Guy Carleton, in which they asked for 5,000 acres each, the allowance of a field officer. They put forward this claim on the ground that their position prior to the Revolution had been very respectable, and they had possessed much influence. They desired in fact to be great landlords, and to have the other Loyalists subordinate to them in the capacity of tenants. Sir Guy Carleton seems to have yielded to their demand at first, for he sent an order to Governor Parr to have the 5,000 acre lots surveyed. But a copy of this petition was printed in New York and at once raised a storm. A largely attended meeting of Loyalists was held in Roubelet's tavern to protest against this enormous grant, and a committee was appointed to draw up a memorial to Sir Guy Carleton on the subject. There was equal indignation when the news of this petition reached St. John, for the people already there could feel with even greater intensity than their friends in New York, the injustice of such a demand. The result of the remonstrances addressed to Carleton were, that the petition of fifty-five was refused and they were told that they must be content with one thousand acres each. It ought to be stated to the credit of Governor Parr, that he was opposed to this enormous demand from the first.

Another cause of hard feeling among the Loyalists arose from the manner in which the disbanded Provincial men and officers were disposed of. These men, having fought during the war gallantly, if unsuccessfully, naturally thought that they had a good claim to be well treated in the distribution of land. Nor did they rely altogether on their own merits for they employed agents to look up suitable locations for their expected land grants. Great was their disgust when they learned that the very lands which they had explored in the lower part of the river, were to be given to others, and that the grants of all the provincial regiments were to be above St. Anne's. Lieut.-Col. Stephen De Lancy, who had taken an active part in this matter characterized the arrangement as a notorious forfeiture of the faith of the government. It was carried out nevertheless, and all the disbanded regiments that were settled on the river were placed above St. Anne's with the exception of a few of the 3rd Battalion of De Lancey's. The indignant Colonel did not then know that the land granted to the Regiments, above St. Anne's, was far more valuable than the land on the lower part of the river, although not so easily reached.

All these circumstances tended to produce ill feeling and dissatisfaction. The improvident grants of the year 1765 and two or three subsequent years, had locked up the land that ought to have been immediately available, and there was a disposition on the part of influential people, not only to hold on to the enormous grants, but to get more land if possible.

Influence was believed to be more potent than merit in the government of Nova Scotia. Governor Parr, of course, did not get credit for his refusal, for it was not known until long afterwards. But he was blamed for whatever went amiss and especially for the delay in locating the grants. It was usual for the St. John people to ascribe their disappointemts to the influence of a Council which was composed mainly of men who were natives of New England and who were believed to be disloyal. Joseph Aplin, a lawyer who was afterwards Attorney General of Prince Edward Island, in a letter to Chief Justice Smith of New York describes the difficulties at St. John with a vigorous pen. He had visited the place in the latter part of 1783 and was astonished at what he saw. The settlers had then built 1,500 framed houses and 400 of logs, so that he could scarcely credit his eyes at the sight of such industry. But the people had no legal right to the ground upon which their houses were built, and most of them did not intend to live there but to settle on farms when they could obtain them. Great loss had been incurred by their being compelled to build at the mouth of the river. Policy should have pointed out that the utmost attention should have been paid to the Loyalists, but that had not been the case. The Assembly had lost the confidence of the new settlers, because the bad state of affairs on the St. John arose from its neglect and the delay in granting lands.

These views, which were held by a great majority of the new settlers, soon led to an agitation for the separation of the northern part of Nova Scotia into

a separate Province. There was a double motive for this, the general desire of the settlers to be free from the control of Halifax, and the particular interests of a number of leading Loyalists who wished to be employed as officials and who could only obtain offices by the creation of a new province. One of the most active Loyalists, in advocating this measure was Edward Winslow, who was writing on the subject to England, in the latter part of 1783. It received the support of Sir Guy Carleton, and in the spring of 1784 it was known both in Nova Scotia and in England that a division of the province was likely to take place. On the 7th of July 1784 the Secretary of State wrote to Governor Parr, that the measure, for the division of Nova Scotia had been carried into effect, and that Col. Thomas Carleton had been appointed Captain General. Governor Parr appears to have been in favor of the creation of a new province for in a despatch to the Secretary of State of the 26th of July, he suggests the measure as one that would be likely to make the St. John Loyalists more contented. Parr was greatly concerned at the charges which had been made against him, which seemed to reflect on his integrity, but he was informed that they had not prejudiced him in the eyes of the government. Indeed, Governor Parr seems rather to have gained in favor as a result of the attacks made upon him, for he was allowed to continue at the head of the government of Nova Scotia until his death in November 1791.

The commission appointing Col. Carleton Governor of New Brunswick, was issued on the

16th of August, 1784. The Bay of Fundy, the Misseguash River and a line from the source of this river to Baie Verte were the Southern boundaries of the province, so that in territorial extent, New Brunswick was larger than what was left of Nova Scotia. Although inferior in some important respects to the old Province from which it had been separated, New Brunswick had many resources, and ample room for a large population. It started upon a new career with but a small body of settlers, living in a country which was as yet a vast wilderness, but its people were energetic and hopeful, they had faith in the future of their chosen land and now, after the lapse of more than a century, their descendants can say that their faith has been amply justified.



CHAPTER IX.

NEW BRUNSWICK, at the time of its separation from Nova Scotia, contained about 16,000 inhabitants, of whom 12,000 were Loyalists. Of the remainder about 2,500 were old inhabitants, most of them from the old colonies, and 1,500 French. With regard to the latter there are no accurate figures except with respect to the St. John River, where the Commissioners found sixty French families, numbering 354 persons. But these were all settled on the lower one hundred miles of the river, and there were no doubt many French above, of whom no account was taken. It is impossible to give even a satisfactory guess, of the number of French in the Chignecto district and on the North Shore. Probably the estimate of 1,500 for the total French population is much too low but there is no better available. The total population of the Province was but that of a small town, and the people were mostly so poor that they had to depend on the government for their food, for few of them were in the way of making a living. The country was without roads or bridges or any of those means of communication, which older countries possessed, so that it was necessary for the people to settle on the banks of the rivers, which were capable of being navigated by boats or canoes. The poverty

of the people, who had been stripped of all their property, prevented them from advancing except by slow degrees, and for many years the inhabitants of the province had to maintain a struggle, under the most adverse circumstances, against the rugged might of nature and the lack of means. Nor can it be said that the antecedents of many of the settlers fitted them for the work they had to undertake. Some of them were members of the learned professions, who had never done any hard work in their lives and were, of all men, the least capable of making a living on new farms. Others were tradesmen of various kinds and small shop keepers, who were hardly more capable than the professional men, of making homes for themselves in the forest. Many were soldiers, whose long service in the army had unfitted them for habits of steady industry, while even among the farmers, who formed a majority of the Loyalists, there were many who were quite unaccustomed to the rough life they had now to undertake, having come from long settled farms in the older colonies. Thus the new population of New Brunswick was much less potential for effective work, than an equal number of men accustomed to life in the forest would have been.

Thomas Carleton, the governor of the new province, who continued to fill the position for more than thirty years, and who actually resided in the province for eighteen years, was a younger brother of Sir Guy Carleton. He began his military life in 1753, in the 20th Regiment of foot, and during the next twenty years, saw a good deal of service in

Europe. He went to Canada in 1776 and was appointed quarter master general of the Northern Army, and he continued to serve in Canada until the end of the war. After thirty years active service he had attained the rank of Colonel, so that there was apparently nothing brilliant in his military career. The same is true of his tenure of office as Governor of New Brunswick. His abilities appear to have been very moderate, and his views of government, those of the Tories of his time. He dreaded all innovations on the old order of things. He distrusted the people, and while he was willing to give them the semblance of power, would have denied them the reality. As a consequence of this frame of mind, he surrounded himself with men of reactionary views, whose opinions on public affairs were similar to his own and who in their capacity as members of the Council, got into numerous conflicts with the representatives of the people. As a result, the Governor became unpopular, and, weary of his position, returned to England, leaving a succession of administrators to do the work that he was paid for performing. When he died fourteen years afterwards, still Governor of New Brunswick, the people of the province had almost forgotten him, and the news of his death was received with as little emotion as that of a mandarin in the Chinese Empire.

Governor Carleton, set out for his new province very soon after his appointment, but he did not reach Halifax until Oct. 30th, after a passage of fifty-eight days, and it was the 21st of November before he got to Parrtown. There he met with a

very hearty reception from the Loyalists, who believed that all their difficulties were due to Governor Parr. The state of their feelings was shown by the terms of their address to Governor Carleton, in which they called themselves a number of oppressed and insulted Loyalists, adding that they were formerly freemen, and again hoped to be under his government. Carleton, immediately after his arrival, published his commission and issued a proclamation announcing the boundaries of the new province and authorizing the civil and military officers to continue in the execution of their duties. Before leaving England, the Secretary of State had directed his attention to certain instructions in his commission which it was deemed important for him to keep in view. Until an Assembly could be called, he and his Council were authorized to make ordinances, but, except in matters of regulation, he should not often exercise that power, as the existing population would at least enable him to lay the foundation of an Assembly. He was to issue a proclamation directing the registering of grants to be made, and the Assembly, when called, was to pass laws on the subject. The declaration of the supremacy of the British Parliament was not to extend to the power of taxation, which had been surrendered.

The first Council was held on the 22nd November, and on that occasion, George Duncan Ludlow, James Putnam, Abijah Willard, Gabriel G. Ludlow, Isaac Allen, William Hazen, and Jonathan Odell, were sworn and took their seats as members of the Council, and a day or two later, Gilfred

Studholme, and Edward Winslow. All the members of this body were Loyalists, except Major Studholme and William Hazen, who represented the old inhabitants. The only member who was likely to be personally obnoxious to the people was Abijah Willard, who was one of the famous fifty-five petitioners, who each had asked for 5,000 acres of land. Of the other members George D. Ludlow, was the Chief Justice of the Province, and James Putnam, and Isaac Allen were puisne judges. Jonathan Odell, was the Secretary of the Province, and Winslow, Surrogate General. The third puisne judge, Joshua Upham, was not sworn a member of the Council until nearly two years later. The selection of members of the Council was made in England, for the members sworn in were all named in the King's instructions to Governor Carleton. Some of them were men of first class ability, and all were men of merit. Putnam was a very great lawyer, at one time rated as the ablest in America. George D. Ludlow had been a judge prior to the Revolution. Isaac Allen and Gabriel G. Ludlow, had served the Crown as Colonels of Loyalist Regiments. Winslow had been Muster Master General of the Loyalist forces during the War. Odell had been a Military Chaplain. Both Winslow and Odell were men of considerable literary ability. Studholme had been a faithful and efficient officer in command of the garrison at St. John for many years, and Hazen, although not nominally a Loyalist, had remained loyal at a time when hardly any person on the St. John River, with the exception of his partners and

himself, adhered to the cause of the Crown. As a whole, the Council represented the respectability and talent of the province fairly well, but its members were too much alike in their views on public questions, and the common people looked upon it as an aristocratic body, so that it soon became unpopular.

There was plenty of work for the Governor and his Council to do in placing the affairs of the new province upon a satisfactory footing. To provide for the people and place them on their farms, seemed to be the business that was the most urgent, and to this Governor Carleton immediately directed his attention. As a preliminary step, a proclamation was issued requiring all persons who claimed land within the province under grants from the Governor of Nova Scotia, to exhibit and register them in the proper offices in this province. This measure got rid of a large number of grants, the owners of which had never taken any steps to carry out the conditions on which they had been granted, and saved the trouble of resorting to the tedious process of escheat. It was, however, an extreme exercise of power and only to be justified by public necessity. The measure did not originate with Governor Carleton, but was suggested in the instructions of the Secretary of State. At the first session of the Legislature in 1786, an act on the same lines was passed, requiring the registration of all Nova Scotia grants within one year, and voiding all grants that were not so registered. The passing of this act without any reference to the proclamation, would seem to show that the latter was not regarded as effectual.

Soon after Governor Carleton's arrival, a set of regulations were drawn up for the guidance of those requiring land. These provided that applicants for land should draw their farms by lot from the surveyed lands, and limited the size of a grant to two hundred acres, except in certain special cases. For the first year after the establishment of the province, a large part of the work of the Council consisted of dealing with applications for land, and in that time hundreds of claims were disposed of, and farms granted, not only to Loyalists and members of the disbanded provincial regiments, but to old inhabitants who had been disturbed in the possession of the lands upon which they had been living, and also to black men who had come with the Loyalists, many of them slaves who had escaped from their masters in the Southern Colonies.

The regulation of the commerce of the province was another matter which required and received the attention of the Governor and Council. The laws then in force which dated back to the time of Oliver Cromwell, prohibited the importation into the United Kingdom and its dependencies, of any goods the produce of Asia, Africa or America except from the places of its production, and in ships of which British subjects should be the proprietors and right owners, and of which the masters and three-fourths of the mariners, should be British subjects. This law was being much disregarded at the time Governor Carleton arrived in the province, and most of the trade of the country was being done by vessels which belonged to citizens of the United States. One of the first acts of

Governor Carleton was therefore to put a stop to this illicit trade, which had grown up largely as a result of peculiar circumstances, and had continued to flourish because there were not sufficient officers to prevent it. It became necessary for the Governor to relax the stringency of the law in certain special cases, and to allow goods to be imported into the Province in foreign vessels where settlers were bringing in their effects from the United States.

The boundary between New Brunswick and the United States was another question which demanded immediate attention. Scarcely was the ink dry upon the Treaty of Peace which defined the boundary, before the Americans began to make claims with regard to it, which were afterwards shown to be utterly baseless. The American contention was that the Magaguadavic was the St. Croix referred to in the treaty, a contention which, if it had been made good, would have deprived this province of a very large territory. Governor Parr, had the year previous, urged the settlement of the eastern bank of the St. Croix so that the British claim might be supported by actual occupation, and as a result of his efforts, a considerable number of Loyalists located themselves in the Passamaquoddy district. Some of these people had been warned against settling at St. Andrews by John Allan, who professed to be acting on behalf of the legislature of Massachusetts, and who claimed that the eastern bank of the St. Croix was a part of the United States. In 1784 the Massachusetts legislature appointed a committee of three to investigate the boundary question, and these gentlemen reported

that the Magaguadavic was the original St. Croix. This opinion was fortified by that of John Adams, one of the negotiators of the Treaty. Under these circumstances, the Governor of Massachusetts wrote to Governor Parr, claiming the district west of the Magaguadavic as American territory, and asking Parr to remove from it British subjects who had settled there. This communication was replied to by Governor Carleton, who maintained the claim of Great Britain to the territory east of the St. Croix, and stated that, agreeably to that claim, the town of St. Andrews had been built by the Loyalists after the peace. Here the matter rested for several years.

Governor Carleton does not appear to have been satisfied with Parr Town as the capital of the province and proceeded to look about him for another site for the future metropolis. During the winter he visited the principal settlements on the St. John river, and in a despatch to Lord Sydney dated the 25th April, 1785, he announces that he has fixed upon St. Anne's Point as the future seat of the Provincial Government. He stated that it had the advantage of being nearly the centre of the province and within a few miles of the head of navigation for vessels of any size. He added that as a mark of respect for the Duke of York, he had named it Fredericktown. It does not appear what influenced the Governor's choice at that time, but certainly it was not a wise one. As St. John was more accessible to a majority of the people of the province than any other place that could be chosen, there did not seem to be any good reason for changing the site of the capital just then. But if it was necessary to place the seat of

government up the river, the mouth of the Oromocto was a much better place being at the head of deep water, and at the junction of a navigable river. Besides, the land being higher at Oromocto than St. Anne's Point, it was better suited to be the site of a city, and there is little doubt but for this unfortunate choice, the provincial capital would today be a much larger city than it is at present. The choice of St. Anne's Point made the Governor very unpopular in Parr Town, and this unpopularity had afterwards some unpleasant consequences.

Perhaps it was to conciliate the Parr Town people and compensate them for their disappointment with regard to the capital, that Governor Carleton in May of the same year, gave that town a charter of incorporation as a city and changed its name to St. John. This was done without reference to the home authorities and the governor was censured by them for granting the charter without consulting them. No doubt the act was a wise one and for it the governor deserves praise. It gave St. John an importance, which it did not before possess and encouraged its inhabitants to make greater efforts for its advancement. The charter in most respects resembled the Colonial charter of the City of New York, the aldermen, assistants and constables being elected by the people and the Mayor, Sheriff, Recorder and Clerk being appointed by the government. This charter continued in force for many years, but it was amended in many material respects by more recent enactments. It was practically superseded by the Act of 1889, which took in the territory north of St. John, which

had also become a city under the name of Portland.

During the year 1785, the work of settlement went on rapidly and most of those who had arrived in the province were placed on their farms. The population of St. John, which had been much larger than the condition of the province warranted, had become much reduced by these means, and towards the end of the year probably did not exceed two thousand. But the city contained a large proportion of the energy and intelligence of the province, and especially of men who held liberal views on public questions. These people viewed with impatience, the delay in the organization of the province by calling a House of Assembly, and they did not look with favor on the ordinances which the governor was from time to time making public for the settlement of questions, which they thought ought to have been disposed of by a legislature. A year elapsed after the arrival of Governor Carleton before New Brunswick possessed a House of Assembly. He stated in a letter to the Secretary of State, the reason for this delay was, that he was anxious to finish everything respecting the organization of the province, that properly belonged to the Royal prerogative, before a meeting of the representatives chosen by the people. He thought these representatives would be most usefully employed in adapting the laws to a government already formed. He added "I think on all accounts it will be best that the American spirit of innovation, should not be nursed among the Loyal Refugees, by the introduction of acts of the legislature for

purposes to which, by the common law and the practice of the best regulated colonies, the crown alone is acknowledged to be competent." Governor Carleton did not inform the Secretary of State which colonies he considered to be the "best regulated," but as thirteen of Great Britain's fairest colonies had just been lost by a persistence in the methods he was imposing on New Brunswick, it is surprising that he should not have taken the lesson more to heart. In concluding this remarkable letter the governor, referring to the differences between the constitution of New Brunswick and that of Nova Scotia, said—"There everything originated according to the custom of New England, with the Assembly, but here, where a great proportion of the people have emigrated from New York and the provinces to the Southward, it was thought most prudent to take an early advantage of their better habits and, by strengthening the executive powers of government, discountenance its leaning so much on the popular part of the constitution."

These extracts from Governor Carleton's letter show with what ideas of government he conducted the affairs of this province. He viewed with alarm, the participation of the people in the administration of public affairs. It was necessary to have a House of Assembly, but he desired this branch of the Legislature to be shorn of its power as much as possible. He was willing that the House should have the appearance of exercising authority, without the reality. He believed any attempt on its part to curb his power would be wrong, and that the

people should not lean on the popular part of the constitution, but on him and his Council. Holding such views it is not surprising that a conflict soon arose between the House of Assembly, and the Governor and his Council, a conflict in which almost every successive Governor became more or less involved, for more than half a century.

On the 15th Oct. 1785, writs were issued for the election of members to serve in a General Assembly. The province had been divided into eight counties, and the number of members to be returned was twenty-six. St. John, was alloted six members: York, Westmorland, and Charlotte, four each, and Kings, Queens, Northumberland, and Sunbury, two each. The right to vote was given to all males of full age, who had been inhabitants of the Province for three months. The object of the franchise being settled in this way, was to enable industrious and meritorious settlers who were improving their lands, but had not received their grants, to have the right to vote. The election was held in November, and lasted fifteen days. Such was the custom at that period, when open voting prevailed, and the poll was shifted from place to place, to accommodate the voters. Under these circumstances, it is not surprising that elections in those days were frequently attended with much disorder. It was the custom of the age to keep open houses where the voters were supplied with food and drink, and this led to drunkenness and rioting. In most parts of the province the elections proceeded quietly enough, but it was otherwise in St. John. There a regular opposition ticket had been formed and the

contest was between the Aristocratic and the Democratic elements. The election was sharply contested, and there was some rioting, but no one seems to have been seriously hurt. The Governor thought the occasion justified him in calling out the troops and the riot was speedily suppressed. A few persons who were supposed to be ringleaders, were arrested, and some of them were afterwards tried and punished by fine and imprisonment.

If this had been the whole story of the election, it would not have been worthy of any special mention. But it happened that among the six government candidates were Jonathan Bliss, the Attorney General, and Ward Chipman, the Solicitor General. Their friends discovered, with dismay, that they and the whole government ticket, were likely to be defeated, and before the close of the poll a scrutiny was demanded. The sheriff, William Sandford Oliver, who seems to have been a willing tool in the hands of the government candidates, granted the scrutiny forthwith, and proceeded to strike off enough votes of those who had voted for the opposition candidates, to give the government candidates the majority. The whole number of votes thus struck off appears to have been eighty-two, which, in a small constituency was quite sufficient to change the result of the election. No doubt the sheriff would have struck off more names if it had been necessary. No reason was offered for this wholesale proceeding, and the voters were given no opportunity of justifying their votes, which apparently, were perfectly good. Yet when the matter came before the House of Assembly and

justice was demanded, the candidates who had been cheated out of their election, and the voters who were robbed of their franchise, were coolly told that having neglected at the scrutiny before the Sheriff to justify their votes struck off, they could not afterwards be admitted to prove the votes good.

This was an extremely discreditable transaction, and it ought to re-assure those who are disposed to believe that the standard of political morality has declined since the days of the founders of this province. The blame for it, must justly rest on Attorney General Bliss, and Solicitor General Chipman, men learned in the law, who profited by it. Sheriff Oliver no doubt, acted under their instructions. But the House of Assembly, was also greatly to blame for allowing a technical objection to outweigh right and justice. As there was no law for the guidance of the sheriff, and he acted simply on his own responsibility, the House should certainly have exercised its undoubted power of revising his return. But the determination of the Governor's friends to obtain a majority in the House, was so strong as to cause them to disregard every other consideration. The result was very unfortunate, for it caused a majority of the people of St. John to lose all faith in the Governor and his advisers. They felt that they had been grossly wronged by men making high professions, and claiming to be superior to their fellow men. Even the persons who profited by the fraud, were losers in the end, for Ward Chipman was never again able to secure his election in St. John, while Bliss only succeeded in doing so after the lapse of many years.

CHAPTER X.

THE constitution of the province at this time and for almost half a century after its foundation demands some attention, for without a perfect understanding of it the reader will be unable to follow intelligently the history of the Constitutional struggle which began in the early years of the nineteenth century, and which never ceased until the Constitution of the Province had been entirely reformed. Such a constitution would not be tolerated now by people of British origin, but at that day different ideas prevailed, and it was thought to be eminently satisfactory by the upper classes in the province who profitted by it. The system was based not on parliamentary enactments, as is the case with the present constitutions of Canada and the provinces, but on orders in Council. The centre and pivot of the whole system was the Governor, who was appointed by the Crown, and who looked to his masters in England and not to the people of the province for support. His commission made him Governor-in-Chief and Captain-General of the province with the power to appoint all officers, subject to the veto of the authorities in England. Nominally these appointments were made by the Crown, actually they were made by the Governor, with or without

the advice of his Council, and without any reference to the wishes of the people of the province. The Governor was in a position to control everything, and there was no way of checking his authority even if both branches of the Legislature united for that purpose, which they were very unlikely to do. The governor's independence of the people was maintained by the fact that he had at his command a considerable revenue over which the legislature had no control. Parliament voted for the support of the Government of New Brunswick, a certain sum which was to meet the expenses of what was termed the civil list. The first estimate voted for the civil establishment of New Brunswick, from the 24th of June, 1784, to the 24th June 1785, amounted to a total of £3,100 sterling. Of this sum, £1,000 went to the Governor, and £500 to the Chief Justice. The Secretary received £250, the Attorney-General £150, the Surveyor-General £150, the Agent £150, the Naval officer £100, four missionaries £75 each, while £500 was put down for contingencies. In addition to these salaries all the officials received fees, which in many cases amounted much more than the salaries. Besides the parliamentary vote, the Governor had control of two other sources of revenue, the casual and territorial and the customs. The causal and territorial revenue was that which arose from the sale or leasing of Crown lands. These lands were dealt with as if they actually belonged to the King, and the legislature had no authority over them. The revenues arising from them at first were small, but in the course of years they became large, and the

Governor dealt with them as he pleased. After a time the necessity for voting grants for the benefit of New Brunswick by the British Parliament ceased, and the civil list salaries, which had largely increased in the meantime, were charged on the casual and territorial revenue. But this revenue had become so large, that there was always a surplus, and this surplus the Governor might deal with as he pleased. All the Crown land officials were handsomely paid, the office of Surveyor-General was equal in respect to emoluments to that of the Governor, yet the legislature had no control over him whatever, and had no means of knowing the amount of the revenue that was derived from the public domain of the province.

Another source of revenue that the governor had at his command was that from the customs. The cause of the revolution which lost the thirteen colonies to the British Empire was an attempt on the part of the Mother Country to tax the colonies. In 1778, while the war of the Revolution was going on, Great Britain attempted to win back the colonies by repealing the obnoxious act imposing a duty on tea, and by formally promising to impose no taxes on the colonies for the sake of revenue. The British Parliament while it retained its ancient right of imposing such duties as were necessary for the regulation of commerce, bound itself that those duties should always be applied to public purposes in the colony in which they were levied, in such manner as the colonial assemblies should determine. The attempt to win back the colonies came to nothing, and parliament seems to have speedily

forgotten its pledges, for duties continued to be levied on goods coming into the remaining colonies of Great Britain, and for many years the legislature of New Brunswick had no control whatever over the money thus obtained. The British government had one set of officials, who under the titles of collectors and sub-collectors exacted the duties imposed by the Imperial Customs Acts, while the province had its treasurer and deputy treasurers to collect the provincial duties. The inconvenience of such an arrangement can be easily understood, involving as it did the necessity of dealing with two different sets of officers, whatever goods had to be imported. But its injustice was even greater than its inconvenience for it involved the collection of large sums of money from the province, over which the House of Assembly had no control, so that the governor could be quite independent of that body.

The council, which consisted of twelve members, exercised both executive and legislative functions. As an executive council it met to advise the governor and assist in the transaction of business requiring attention, while once a year, while the House of Assembly was in session, it met as a branch of the legislature to revise all bills passed by the House and to send down bills to the House, which had originated and been passed in the council. The first council was largely composed of persons holding official positions and this continued to be its character, so long as its constitution remained unaltered. In the first council were the four judges of the Supreme Court, the Secretary of the Province and the Surrogate General, and they

always took the lead in the public business. As the governor had the power to suspend any member of the council and to fill up all vacancies when the number of its members became less than nine, he exercised an almost absolute control over it, and the council, whether in its executive or legislative capacity, was always ready to do what he desired. Appointments to office, which might have been a cause of difference, never disturbed the harmonious relations of the governor and his council in the early days of the province, because the officials appointed were nearly always relatives or friends of the members of the council. All the offices that were of any value went to the members of a few leading families and in many instances descended from father to son. Thus it happened, that when the Honorable and Rev. Jonathan Odell, who was the first Secretary of the Province, died in 1818, he was succeeded by his son the Hon. Wm. F. Odell, who held the office until his death in 1844, so that this important and lucrative office remained in one family for sixty years. The people applied the name of The Family Compact to the system, which gave all the offices to a few families, who kept on good terms with the governor, and the New Brunswick compact was quite as narrow and much more effective than that of the Bourbons. The Family Compact always had its representatives in the House of Assembly to fight reform in that branch of the legislature and as it had absolute control of the Council, no law could pass of which it did not approve. Had it not been for the ability of the House to stop the

supplies, the Governor and his Council would have been able to exercise absolute control, and even this power of the House was greatly lessened, by the fact that the Governor had the disposing of revenues, which the House could not touch.

As a last resort the House of Assembly could appeal to the British government, and this was sometimes done. But such appeals were not likely to receive much attention especially in the early years of the Province, because at that time, anything that had the flavor of reform was steadily frowned down by the home authorities. The success of the American Revolution induced many of the Loyalists who had suffered by it, to look with horror on every measure which seemed to give the people control over affairs. The Royal Prerogative was exalted at the expense of liberty, and any man who ventured to set limits to it, was looked upon as a traitor. To call a man an innovator, or a leveller, was to condemn him at once, as in these days we would describe an assassin. As the French Revolution came soon after the founding of the province, its success and horrors were spoken of, as the consequence of giving the people freedom, and, thus, another weapon was forged against reform. This spirit continued to prevail until the close of the war with Napoleon, when the British people awoke from what seemed a hideous dream, and found themselves almost ruined and beggared, by a contest which had lasted twenty years, and left them overwhelmed with debt, and with little or nothing to show for it. In the meantime, the

rights of the subject had been violated, free speech suppressed, the law of libel made the agent of tyranny, and the press muzzled, so that no man dared to criticize or condemn the most odious acts. With such a condition of things existing at home, it is not surprising that any complaints against provincial governors were but little regarded.

When the province was established, and for more than sixty years afterwards, the post office was under the control of the Imperial authorities. This, perhaps, was less of an evil than some of the other features of the system of government, because the post office was not a money making institution. Nevertheless such an arrangement was subject to many inconveniences, because the province had no control over its own mails, and it had sometimes to pay large sums in postage on its public documents. It was not until the year 1850 that the postal system of the province was transferred to New Brunswick.

One of the first objects of Governor Carleton on assuming the administration of the affairs of the province, was to establish a table of fees. These fees were in some cases taken in lieu of a salary, and in some cases supplemented the salary. Fees were paid to all officials, including the judges, for every service they rendered to a private individual. In some cases, the fees exacted were so large as to be a heavy burden to the people who had to pay them, while those who received them, became enormously wealthy. The fees paid on land grants were specially complained of, and a return which was made public in 1819 disclosed the amazing fact that the fees on a Crown grant of three hundred

acres or less amounted to £11. 13. 4d., of this sum the Governor received £4. 1s. 8d., the Secretary £3. 7s. 6d., the Attorney General, £1. 10s. 10d., the Surveyor General £2, and the Auditor General, 13s. 4d. These enormous fees, while they enriched the officials who received them, furnished a strong inducement to them to encourage the granting of land improvidently to all who asked for it. Thus the public domain was wasted without the province receiving any proper equivalent.

With a Governor taking his orders from England and a Council composed as that of New Brunswick was, it is needless to say that there was no executive responsibility to the people. That feature of government which is now justly regarded as the most essential, was then wholly wanting. The Governor was responsible to the home authorities, while the Council were responsible only to the Governor. No vote of the House and no effort of the people, could bring about a change of government because the officials could only be removed by the Governor himself. Officers like the Attorney General, Provincial Secretary or Surveyor General, who now hold their positions only so long as they can command the support of a majority of the legislature, then held them for life or until they obtained a higher office. Jonathan Bliss was Attorney General from 1785 to 1809 when he was made Chief Justice. His successor, Thomas Wetmore, held the office from 1809 to his death in 1828. George Sproule, the Surveyor General, held that position from the foundation of the province until his death in 1817, and one of

his successors, Thomas Baillie, had a still longer tenure of office. We have already seen how the Odells, father and son, filled the office of Provincial Secretary for sixty years. Is it any wonder that these high officials looked upon the common people with utter contempt and paid no attention to their complaints? They regarded the offices they held as their own property to be used by them for their own benefit, and not that of the people.

One great evil in the constitution of the province, was the lack of publicity in the legislative proceedings. The Council sat with closed doors and not even the members of the House of Assembly could be present at its debates. When the House wished to ascertain what had become of some bill it had sent up to the Council for concurrence, its only resort was to appoint a committee to search the Council Journals. But no stranger dared to invade the sacred privacy of the Council Chamber. No journals were even printed to convey to the public an intimation of what was being done by this branch of the Legislature. In 1820 Mr. Justice Bliss endeavored to open the doors of the Council to the people by moving that each member might admit any number of persons, not exceeding six, to hear the debates. The motion was defeated and it was not brought up again, so that the old Council from the beginning to the end of its career in 1832, sat with closed doors. Perhaps the public did not lose much by their exclusion. If they had been admitted they would have seen five or six, or sometimes as many as eight old men,

half of them in their dotage solemnly pondering over the bills which had been passed by the people's representatives, and frequently rejecting them apparently for no other reason but to show their power. If any visitor had been in the Council in 1829 he would have seen that legislative body postponing all business because a messenger from the Council to the House was received by the Speaker with his hat on, and only resuming business when the House passed a solemn resolution that the Speaker should take off his hat when receiving the message of the Council. In 1820, Attorney General Wetmore gave notice of a resolution that, in future, the Journals of the Council should be printed at the end of the session. This resolution was never passed or even debated. But in 1823, at the instance of Judge Bliss a resolution was passed for an address to the governer praying that he would direct one hundred copies of the Journals of the Council to be printed. His Excellency said he would comply with the request, but it does not appear that this was ever done, for the Governor, General Smyth, took suddenly ill during the session and died immediately after its prorogation. It was not until 1830, that any provision was made for printing the Journals. Then it was resolved that all the Journals of the Council from the first session in 1786 should be printed, and that in future the Journals of each session should be printed at the end thereof. Under this resolution the Journals from 1786 to 1830 inclusive were printed in two large volumes and the people learned for the first

time, after nearly all the persons interested were dead, what the council had been doing for so many years. After that the journals were regularly printed until the abolition of the Council in 1892. But for forty-five years after the province had a legislature the public were left in total ignorance of its work. Such a condition of affairs could only exist in a community in which the people were accustomed to submit tamely to the predominance of a few influential families, and in which free speech was in a measure suppressed.

That free speech was suppressed in New Brunswick in its early days will be evident enough to those who read this history, and in this work the House of Assembly was even more prominent than the Council. Although the House was supposed to represent the people it claimed to be superior to public opinion and any who ventured to criticize it did so at his peril. The case of Handyside, which will be noticed more fully in a future chapter, was but one of many in which the rights of the subject were wholly disregarded. It must be evident that if every criticism of the actions of a legislature, whether spoken or printed, is to be regarded as a contempt to be punished in a summary fashion by the body which conceives itself aggrieved by the criticism, there can ever be any improvement brought about in public affairs except by revolutionary methods. Free speech, instead of being a source of danger to the state is its greatest safety, because in countries where it prevails, changes in the constitution are brought about by peaceful means and argument. Free

speech and a free press are now justly looked upon as an essential part of our system. No one can now be haled before the Legisiature for saying that it has acted wrongfully, or for writing in the newspapers to point out its short-comings. But in 1786 and for many years afterwards no criticism, however mild, was tolerated. In 1818, while the Legislature was in session, the City Gazette, a newspaper published in St. John, contained an article mildly criticizing the House of Assembly. This was voted a breach of privilege, and the publisher of the paper was compelled to go to Fredericton to be punished for his offence. He disclosed the name of the writer of the article who was Stephen Humbert, one of the members for the City of St. John. Upon this the anger of the House was transferred from the publisher to the writer, and Humbert was forthwith expelled the House, and his seat declared vacant. So far as the journals show, not one man voted against the resolution of expulsion. Yet the article which brought so severe a punishment, would be looked upon as a very weak affair at this day.

But while the House of Assembly thus lorded it over the people, the Council and the Governor claimed to be superior to the House. A petty dispute which arose in 1817 over the possession of the keys of the room in which the Assembly met, shows the spirit in which the Council and its officials viewed the representatives of the people. Before the adjournment of the House in 1817, a resolution had been passed that no person, during the recess of the General Assembly, have access to the Assembly Room, without the permission of the Clerk of the

House. A few days after the adjournment of the House, Mr. F. W. Odell, who had succeeded his father as Secretary of the Province, obtained the key of this room from the caretaker, and refused to give it up. Mr. Wetmore, the clerk of the House, forwarded him a copy of the resolution passed by that body, and received in reply, a cool letter from Mr. Odell, in which it was stated that the President and Council were agreed that Mr. Odell should have the custody of the room, but that the Clerk might have a key. This the Clerk, with very proper spirit, refused to accept, and wrote to Speaker Botsford on the subject. The latter mildly expressed his regret at Mr. Odell's interference, but said that nothing more could be done until the House met. The House, at its next session contented itself with passing another resolution with regard to the custody of the key, similar to that of the previous year, which Mr. Odell had disregarded. The incident shows that the Council considered their authority to be much greater than that of the Assembly, although they represented nothing but the favor of the Governor and their own individual selves.

Another feature of the old constitution of the Province, which was very noticeable, was the predominance of one Church, the Church of England. The Church of England was regarded by many as established in the Province, in the same sense as it was established in England, and, although that was not so in point of law, it was highly favored above all other religious denominations. Every member of the original

Council of the province was a member of that church, and it was not until 1817, when William Pagan became a member of the Council, that a member of any other church succeeded in entering that body. Every judge of the Supreme Court, until the appointment of L. A. Wilmot, in 1851, was a member of the Church of England. All the high officials of the province for the first sixy years of its existence, were members of the Church of England. The Bishop of Nova Scotia was a member of the Council and actually took his seat in it on one occasion in 1826. Large tracts of lands for glebes and for the support of the Church of England, were granted by the province and missionaries of the Church of England were paid out of the provincial civil list. The college, which was endowed with a large amount of public money, was essentially a Church of England institution, the Bishop being its visitor and there being a chair of Divinity for the education of clergymen of that church. Yet it does not appear, that at any time in the history of the province, a majority of the people were members of the Church of England. At present the adherents of that church form about one eighth of the population of the province. The first census that gave any intimation of the strength of the various denominations was that taken in 1840, by which it appeared that there were 61 Church of England places of worship, against 209 for all other denominations. The census of 1851 gave no information on this point but in 1861, it appeared that the adherents of the Church of England numbered 42,776 in a total population of

252,047. No doubt the Church was stronger in proportion to the population in 1786, than it was in 1861, but it is hardly possible that it ever embraced a majority of the population. Yet, it was the favored church, and, for a long time, the only church that was recognized by the rulers of the Province.

CHAPTER XI.

THE Legislature of New Brunswick met for the first time in St. John, on the 3rd January, 1786. As there were no legislative buildings in St. John, the assembled wisdom of the Province had to resort to an inn, the Mallard House, which seems to have been the principal hotel in St. John at the time Only thirteen members put in an appearance the first day and no business was done. On the following day Amos Botsford, one of the members for Westmorland, was elected Speaker, and the House adjourned to the 9th January. Botsford remained Speaker of the House of Assembly until his death in 1812, but his election in the first place was due to something like an accident. The intention of the Governor's friends was to make Jonathan Bliss, Speaker, but as he was one of the St. John members who was petitioned against, this could not be done. When it is remembered that Bliss was Attorney General at the time it was proposed to elect him Speaker, the difference between the ideas of that day and the present will be better understood.

The long adjournment after the election of the Speaker, was taken on the Governor's advice, so that there might be a larger attendance of members. By that time seven more had arrived but six were

still absent, three of the Westmorland members, one of Kings and the two Northumberland representatives being still missing. As there were no roads in the Province and the distances were long, the absence of some of the members can be readily accounted for. One or two did not attend the first session at all. With respect to the Westmorland election return, a singular question arose with regard to the right of the French inhabitants to vote. The objection taken to their votes was, that they were Roman Catholics, who were not entitled to vote under the laws of England. This objection was sustained, the votes of the French were thrown out, and in this way Charles Dixon, one of the Westmorland representatives, secured his election.

Elias Hardy, a resident of St. John, had been elected one of the representatives of the County of Northumberland, as the colleague of William Davidson, the first English settler on the Miramichi who had established an extensive salmon fishery there as early as 1765. Hardy was a lawyer, and as he had been consulted by some of the St. John people who were aggrieved at having to wait so long for their lands, he was blamed by Governor Carleton for being the cause of the opposition to the government candidates in St. John; no doubt he thought the Governor's friends would stick at nothing to defeat him, but he offered for the County of Northumberland and was elected through the influence of Davidson. Benjamin Marsden, one of the Governor's friends, who had been made sheriff of Northumberland, desired the election of two residents of St. John

George Leonard and Stanton Hazard, and considered it a great outrage that Davidson, whom he describes as " an ignorant, cunning fellow " should have been able to secure his own election, and that of his friend Hardy. Marsden, although sheriff of the county and the man who was sworn to conduct the election impartially, admits in his diary, that he endeavored to secure the election of Leonard and Hazard. He was much grieved at his failure to accomplish his purpose, but he deserves some credit for not resorting to the methods of Sheriff Oliver, who struck off the names of enough voters to secure the election of the men he favoured. Hardy did not appear to to be sworn in until the 16th of January, almost a fortnight after the House first met, although he had been in St. John all the time, because, until the 13th January, he had received no intimation of his election. As the election was held in November, nearly two months elapsed before the news of it reached St. John. There could be no better illustration than this of the condition of the means of communication in the province at that time.

The Governor's speech was made to both houses on the 9th January. It does not contain anything very remarkable, and is rather a commonplace production considering the circumstances under which it was delivered. He told the houses that he had called them together that they might put a finishing hand to the arduous task of organizing the province, by re-enacting such of the Nova Scotia laws, as were applicable to their situation and passing such bills, as they should judge best calculated to maintain their rapid advance towards

a complete establishment. He recommended to their first consideration the laws relating to crimes and misdemeanors, and those relating to the administration of justice. He advised them to pass bills providing for the election of members to serve in the General Assembly, and for the registering anew of all Nova Scotia grants. In concluding his speech the governor spoke in a very hopeful spirit in regard to the prospects of the Province. He said, "The liberality of the British government to the unfortunate Loyalists in general, and the peculiar munificence and parental care of our most gracious sovereign, to those of them settled in New Brunswick, call loudly for every return that an affectionate and favored people can make; and I am persuaded you cannot better show your gratitude on this behalf for the many unexampled instances of national and Royal bounty, than by promoting sobriety, industry, and the practice of religion, by discouraging all party distinctions among us, and inculcating the utmost harmony between the newly arrived Loyalists and those of His Majesty's subjects formerly resident in the province. And gentlemen, it is with real pleasure I declare that our prospects are so favorable that your exertions for those beneficial purposes can scarcely fail to render this asylum of loyalty the envy of the neighboring states, and that by exercising the arts of peace, they who have taken refuge here will not only be abundantly recompensed for their losses, but be enabled to enjoy their connection with the parent state and retain their allegiance for the best of Kings, which

their conduct has proved they prize above all considerations."

The legislature went very industriously to work to pass the necessary acts for the proper organization of the province. In all sixty-one acts were passed, all of them of a public character and nearly all of them general acts. Their measures provided the province with a body of laws both civil and criminal, which covered nearly every subject on which legislation was required. As the four judges were members of the Council and as the Attorney General and Solicitor General as well as several other lawyers were members of the House of Assembly there was plenty of legal talent available for the passing of necessary laws. Even if this had not been the case the laws of Nova Scotia, which had been tested by experience, were a tolerably safe guide, and some of the New Brunswick acts were copied from the statutes of that province. Others were copies of the laws of New York and Massachusetts. Few of the acts passed were of a contentious character, or called for divisions. Perhaps the one that was most warmly debated was the act for raising a revenue by the imposition of duties on certain articles. An attempt was made to impose a duty of 2s. 6d. on each barrel of flour and 1s. on each barrel of meal imported from the United States but this section of the bill was defeated and the bill withdrawn. A new revenue bill, which was immediately introduced and became law imposed a duty of one penny a gallon on spirlts, 2s. 6d. a hogshead on malt liquors and 5% ad valorem on other goods, except importations from

Great Britain, including breadstuffs. By the same bill magistrates in sessions were authorized to grant licenses for the sale of liquor in their counties, and, in addition to the license fee, the retailers of liquor were required to pay an excise duty on the amount of their sales. This revenue act was only for one year, expiring on the 1st April, 1787.

Another measure of some importance that was passed at this session was entitled "An act for preserving the Church of England, as by law established in this province, and for securing liberty of conscience in matters of religion." The body of the act did not by any means accord with its title. The act did not establish the Church of England, but it established a system of universal toleration and liberty of conscience. It required every minister of any denomination, who had not been chosen by a congregation, to take the oath of allegiance and obtain a license from the Governor. Clergymen of the Church of England were required to read prayers in their churches at least once a month, and they were forbidden to use any other form of prayer but that prescribed. A clause in the second section of this act might be taken to signify, that any clergyman, who was presented to a benefice must be approved by the Governor and this interpretation was actually adopted. From that time, until after the Confederation of the Provinces, appointments to Rectories were made on the recommendation of the Bishop, by the Governor as representative of the Crown. Even so late as October, 1867, we find the Bishop of Fredericton applying to the Lieutenant Governor, for the

appointment of a clergyman as Rector of Prince William. The matter was referred to the Governor General of Canada, who sent the Bishop the necessary authorization. It was not until the legislative session of 1869, that an act was passed which relieved the Lieutenant Governor of New Brunswick and the Governor General of Canada from any further responsibility in regard to ecclesiastical appointments, and vested presentations to Rectories in the Bishop on the nomination of two-thirds of the parishioners.

As the construction of roads between the various centres of population was a matter of the utmost importance, the passing of a highway act, was naturally one of the first objects of the legislature, the act authorizing the appointment of Commissioners for the laying out of roads to Fredericton from St. John by the west side of the river, from St. Andrews and from Sackville, and a road between the River Miramichi and the River St. John. Provision was also made for the laying out of a road from St. John to Westmorland. All these roads were to be not less than four rods in width. As there was but little cash available for road making in the public treasury, the Commissioners appointed to lay out the roads were authorized to solicit subscriptions and donations from private individuals, and each person so subscribing was entitled to receive one hundred acres of land on the road for which he had subscribed, for each five pounds so given by him. These inducements were the means of obtaining a considerable sum in subscriptions. The accounts of 1786 show that £190 was thus

obtained for the Westmorland road, of which General Arnold gave £50. But even with liberal private help the work of road making was necessarily very slow, and it was many years before even the great lines of communication were in a satisfactory condition. At the present time there are about ten thousand miles of roads in New Brunswick, and four thousand bridges, but when the Legislature met in 1786 it is doubtful if there was a mile of good road in the entire province.

The measure of the session which must be regarded with the greatest regret, was one arising out of the St. John contested election. The petitions of the candidates who were cheated out of their election, and of the voters whose names were improperly struck off, having been rejected, other petitions from the voters of St. John asking for redress followed to the extreme annoyance of the friends of the Governor. One of the petitions which was signed by nearly two hundred persons, was addressed to the Governor and asked him to dissolve the House. It arraigned the conduct not only of the Sheriff, but of his advisors in very severe terms. This petition has been characterized as a production of men whose education was deficient, in the matter of spelling and grammar, but their ideas of what was just and right seem to have been more correct than those of the learned men who committed the outrages of which they complained. They say:

"We have publicly seen British subjects confined in irons, carried into a garrison, and there examined under the authority of a military guard; and

prosecutions still hanging over their heads for supposed offences. One of our legal representatives in the Assembly confined in a sentry box at the discretion of a private soldier, the military introduced and unnecessarily and unlawfully patrolling the streets during an election to the terror and alarm of the peacable, inoffensive inhabitants; Crown officers neglecting and refusing to discharge their duty; the freedom of election violated by corrupt and undue influence in the most public manner; the returning officers behaving with the most unconstitutional and unprecedented conduct; irreligion and immorality, instead of being punished, encouraged both by precept and example; the House of Assembly declaring the election for this City and County to have fallen upon Jonathan Bliss, Ward Chipman, Christopher Billop, William Pagan, Stanton Hazard and John McGeorge, whom they have admitted and sworn in as members for this City and County, notwithstanding Tertullus Dickinson, Richard Lightfoot, Richard Bonsall, Peter Grim, John Boggs and Alexander Reid were chosen by a decided majority according to your Excellency's own regulation."

As the substantial accuracy of the statements contained in this petition could not be questioned, it was resolved by the Governor's friends, to put a stop to such appeals, by taking away the right of petition altogether. Accordingly, a bill was introduced in the Council by Chief Justice Ludlow, which was entitled, "An act against tumults and disorders, upon pretence of preparing or presenting public petitions or other addresses to the Governor

or House of Assembly." This bill enacted that no person should obtain signatures above the number of twenty, to any petition or complaint to the Governor, Council, or Assembly, for alteration of matters established by law, in Church and State, unless the matter thereof had been first consented to, and ordered by three or more justices of the County, or by the majority of the grand jury of the County in which the matter arose. The penalty for violating this law was a fine of one hundred pounds and three months imprisonment. This infamous bill was passed in the Council without any opposition, the members present when it passed being the Chief Justice, and Messrs. Willard, Ludlow, Hazen, and Odell, but it encountered some opposition in the Assembly. It was considered in Committee, on the 1st of March, and passed on a division, ten members voting for it, and four against it. The four who thus obtained an honorable record for defending the rights of the subject were, Mr. Hardy, Capt. Clinch, and Messrs. Hazard and Dickinson. The ten who voted that the right of petition should be thus taken away were, Speaker Botsford, Attorney General Bliss, Solicitor General Chipman, Major Coffin, and Messrs. McGeorge, Hubbard, Dixon, Foster, Davidson, and Paine. Three of the ten owed their seats to the wrongful conduct of the sheriff at the election. One of the six St. John members, Stanton Hazard, had manliness enough to refuse to agree to a bill taking away the right of petition. But the bill became law, and although wholly ignored for more than half a century, it is the law of New Brunswick at the

present day. It is printed in the volume of the Acts of the Assembly published in 1838. In the Revised Statutes of 1854, the act is not printed but it was not repealed. It seems to have been treated as an obsolete act, so absurd in its provisions as to be not worth repealing. The fact that such an act should have been passed by the first legislature of New Brunswick, is the best proof that could be supplied of the despotic character of the Governor and his friends, and the low ebb to which the cause of the people had fallen.

The spirit of the House was illustrated in another way which will seem curious in these days of free speech. Among the persons who took an interest in the St. John election proceedings was one George Handyside, whose handwriting, which is to be seen on one of the petitions, shows him to have been a man of education. On the evening of the 24th of January, Mr. Handyside went into McPherson's coffee house in a state of high indignation. That very day a majority of the House of Assembly had voted that the sheriff of St. John in giving the seats to the candidates who had a minority of the votes, had "conducted himself legally, fairly, and with impartiality." Mr. Handyside publicly expressed his opinion of this transaction, and of the members of the House of Assembly. Christopher Sower, who was doing the printing for the House, happened to be present, and being very anxious to curry favor with that body, he reported Handyside's words to the House. Upon this a warrant was issued for the arrest of the culprit, and he was brought before the House, and

compelled to ask pardon, on his knees, for his contempt and breach of privilege. He was then reprimanded by the Speaker, and discharged after paying fees. The House of Assembly, although not above committing a gross wrong on the largest constituency in the province, was not willing to have its conduct criticised or brought into question. The public had to suffer wrongs in silence, for while pimps like Sower were about, no man's liberty was safe. The House of Assembly continued to claim and exercise the power to arrest and punish persons in this summary fashion, for almost sixty years, until an able lawyer, David S. Kerr, interposed, and it was suddenly discovered that the House had no such power, and that in arresting and imprisoning people for supposed breaches of privilege, it had been acting illegally. The case of Hill vs. Weldon settled the standing of the old Legislature for all time, Speaker's warrants ceased to be issued, and yet it does not appear that the House of Assembly has lost anything by the change either in dignity or public esteem.

Among the measures which were recommended by the Governor, was one for regulating the elections of representatives to the General Assembly and for limiting the duration of Assemblies. A bill of this character was introduced in the House of Assembly and passed, and it was also passed by the Council with a clause suspending its operation until the King's pleasure should be known. It took a long time for the King to make up his mind about this bill. Four years passed away and still nothing could be learned of the fate of the New Brunswick

elections bill. Communications were constantly passing between the provincial agent in London and the House of Assembly in regard to the bill, but no satisfaction on the subject could be obtained. The people had to be content with the thought that the King was still engaged in studying over this wonderful bill. At length he, or his advisors, seem to have made up their minds and in August, 1790, the Secretary of State sent a despatch to Governor Carleton informing him that the bill had been disallowed. The reason given was that the qualification of the electors which was the ownership of a freehold worth twenty pounds, was too low. The King's advisors in London thought that they were better judges of what the qualification of a voter in New Brunswick ought to be, than those who lived in the province, and were familiar with the circumstances of its people.

The Attorney General brought in a bill respecting marriage and divorce, which passed the House and the Council with amendments, and was ordered to be sent back to the House for concurrence. As there is no further mention of it in the journals of either House we are left to presume that it was suppressed by some powerful hand. The same bill was passed at the following session of the legislature, with a suspending clause. This act, however, never came into force, for after having been referred to the home authorities, the Bishop of London and the Bishop of Nova Scotia, it was superseded by another act passed in 1791. The suppressed act seems to have been objected to mainly because it was not specific

enough in its terms. Marriages were being celebrated in the province by clergymen of all denominations, as well as by Justices of the Peace, and it was desired by those in authority, to limit this privilege to clergymen of the Church of England and Justices in parishes where there was no clergyman. This marriage question was destined to become a very important one in the politics of the province at a later day.

The session did not pass without attempts at legislation of a doubtful character, such as the Loan Office bill, and the bill for establishing a Bank. The Loan Office bill was to authorize the province to issue a large sum in bills of credit, which were to be loaned to private individuals on interest. The so called Bank bill also provided for emitting Bills of credit to the amount of £10,000 in notes of small denominations, from five shillings to thirty shillings. Of these bills of credit, five thousand pounds were to be loaned to half pay officers who had served in the American war and who were residents of the province, the sum loaned not to exceed one year's half pay. Two thousand pounds were to be loaned to the Counties for the purpose of building gaols or for other public uses. Two thousand pounds were to be loaned to the paymaster of His Majesty's forces, and one thousand pounds were to be expended in the purchase of live stock. Both these bills were defeated in the House. The Loan Office bill was petitioned against by the merchants of St. John and that settled the fate of both bills. The introduction of such measures may be taken as a proof of the poverty of the

people and the lack of money from which all suffered. Another bill which had its origin from the same cause, provided that suits or actions were not to be maintained against debtors for debts due before January 1st, 1784, until after three years from the 1st January, 1786. This bill, after being referred to a select committee, was defeated. Such legislation would have been no doubt improper, but the harshness of creditors who put their debtors in gaol for sums they could not pay, was a real evil which demanded a remedy. At subsequent sessions the House of Assembly received many petitions from debtors who were in prison, and who could obtain no relief through the courts of law.

The legislation of the session provided for a uniform system of weights and measures and fixed the value of certain coins which were to be a legal tender. The English guinea was to be received for twenty-three shillings and four pence, the English or French Crown piece for five shillings and six pence, and Spanish milled dollars for five shillings each. The latter coin was the principal circulating medium in the early days of the Province, and indeed Spanish and Mexican coins were in circulation as late as the year 1860, when a change was made in the currency. As the Province was without a bank until the year 1820, great inconvenience resulted from the state of the currency and the number and variety of the foreign coins in circulation.

During the first session of the legislature, there were no serious differences between the Council and the House of Assembly. The House was so much

under the control of the friends of the Governor, that very little was likely to be done in the popular body, that the Council did not approve. The friends of the people were outnumbered and they were not well organized. It took time to gather together a body of reformers, anxious to have grievances redressed and the constitution brought more into harmony with the principles of liberty. The constitution was new, the Governor almost untried, and some who afterwards became zealous reformers were in an expectant attitude and kept silent. The session was therefore more distinguished by its hard work than by displays of eloquence or the discussion of new ideas. During the fifty-six days that the session lasted, the legislature passed a body of laws, which placed the province in a condition to carry on its business efficiently, and which covered every department of government. This was no small achievement, and while some acts were passed which ought not to have been placed on the statute book, most of the legislation was of a useful and creditable character, and such as the needs of the province demanded.

CHAPTER XII.

THE second session of the New Brunswick Legislature was called for the 13th of February, 1787, but it was the 15th before a quorum could be obtained. On that day the Governor's speech was delivered. It referred to the arrival of Lord Dorchester at Quebec as Governor General, a change which reduced the Governors of New Brunswick and Nova Scotia to the rank of Lieutenant Governors. It recommended the establishment of a militia force for the defence of the Province, and it mentioned the arrival of the commissioners who had been sent from England, to take evidence with reference to the claims of the Loyalists. As the amount of business to be done was small, the session was a short one, the House sitting only nineteen days. A statement laid before the House showed that the revenue of the province from customs and excise duties, collected by the provincial officers amounted to £742 1s. 0½d. The larger part of this came from rum, of which 97,990 gallons were imported in ten months and a half, a rather large allowance for a population of less than 20,000. The revenue from breadstuffs, on which five per cent. was paid, amounted to £221 2s. 1½d. The imports of wheat flour amounted to 3013 barrels, and of rye flour 405 barrels. Rye was largely used at that time,

and for many years afterwards in the province, as an article of food. It will be seen from these figures that the amount of money to be voted by the Legislature was very limited, hardly enough to pay one good salary. As for the sums received in duties by His Majesty's customs officials, the Legislature had no information in regard to them, and no control over them.

As the revenue bill of the previous session was only for one year, a new revenue bill had to be passed. This imposed a somewhat higher scale of duties, the duty on spirits being increased to 12s. 6d. a puncheon, and a specific duty placed on brown sugar and coffee. The appropriation bill of this session contained an item which may be regarded as the first movement in a matter which placed the House of Assembly and Council in conflict with each other, in subsequent years. This was a vote of fifty pounds to the Speaker for his services. This was carried in the House by a vote of nine to seven, the Solicitor-General, Mr. Chipman, and his following being against it. It passed the Council without a division. This was looked upon by many as merely the first step towards the payment of members of the Legislature, a policy which men like Chipman viewed with great disfavor. They professed to regard it as un-British, assuming that all the excellence in the world was contained in the British constitution. The real objection to it seemed to be, that it would enable men to sit in the Legislature who otherwise could not afford it, so that the wealthy would not have a monopoly of the business of legislation,

In compliance with the recommendation of the Governor, a Militia bill was passed, requiring all persons between the ages of sixteen and fifty, to enlist in the militia, and to be mustered and exercised in companies and regiments twice a year. The companies were to consist of fifty men besides officers. Each member of a militia company was to be provided with a good musket, bayonet and a supply of powder and bullets, and a supply of powder and bullets was always to be kept in hand by each militiaman. A few persons, such as clergymen, teachers, doctors, millers and ferrymen, were exempt from the operation of this act, but practically, it included every person of the proper age for military service. This was the first of a long list of militia acts, which were passed by the legislature, in its early days, there being no less than fourteen militia acts passed between the year 1787 and 1816. These acts were all based upon the same principle of universal military service, but owing to the sparse and scattered state of the population, it was difficult to make them effective. At this period there was a real need for a militia force, because for more than twenty years Great Britain was at war with France and also with the United States. It was fortunate that during all these years of war the efficiency of the militia was never tested, for, however loyal and zealous they may have been, they were very deficient in discipline. Even at a period half a century later, when the population was comparatively dense, a militia training was looked upon as almost a farce and much more likely to produce disorder and drunkenness in the place where it was

held, than any display of military efficiency. The circumstances of the country were not suited to a stringent military system, such as exists among European nations in modern days, for the people had much work to do in bringing a savage wilderness into subjection and placing their land in such a condition that they could live upon it.

Among the other acts of the session was one to empower the Justices of the General Sessions of the Peace in the several counties, to grant licenses to tavern keepers and retailers of spirituous liquor. The amount of the license fee was left to the discretion of the Justices, but it was not to exceed four pounds for one year or to be less than ten shillings. This system of granting licenses continued for almost a century, until the Municipal Councils took the place of the Sessions in the work of governing the counties. Since then the adoption of the Canada Temperance Act in most of the counties, had reduced the work of granting licences in the rural districts to very small dimensions.

The extremely primitive condition of affairs in many parts of the Province at this time, was shown by the passage of an act to enable the Justices of the Peace in the several Counties, wherein no sufficient gaols are erected, to send persons charged with grand larceny and other offences to the gaol of the City and County of St. John. The people were so poor, and the amount of public money available was so small, that gaols and other necessary public buildings could not be immediately provided. In the meantime, therefore, the gaol at St. John was available for the confinement of

criminals from other counties, the maintenance of such criminals being at the charge of the counties from which they were sent. The inadequate gaol accommodation seems at this period to have mainly been used by harsh creditors for the imprisonment of their debtors. At this session a bill passed the House of Assembly for the relief of confined debtors. It provided that a confined debtor who could swear that he did not possess property of any kind to the value of twenty shillings, except his clothing and tools of trade should be liberated, unless his creditor was willing to pay five shillings a week for his maintenance. Apparently under this bill, a creditor could have kept his debtor in gaol as long as he pleased, at the expense of five shillings a week, and, after the debtor was liberated, the creditor could still levy on any property the debtor might afterwards acquire. This was apparently sufficiently hard on the unfortunate debtor, but the Council thought otherwise, and summarily rejected the bill without a division. The bill professed to be for the benefit of "mechanics, laborers and others" and perhaps this was the reason why the Council regarded it with such disfavor. It could not have been that they had any objection in the abstract to debtors being treated leniently for some of the members of that body were themselves heavily in debt, and must on many occasions, have found it necessary to ask mercy from their creditors. But it was not in the power even of the Council to put a stop to this necessary legislation. The clamor for relief became too loud to be resisted, and, 1791 a bill embodying

the same principles as the rejected bill of 1787 was introduced in the Council by Mr. Justice Upham and passed. It also passed the House of Assembly and became law.

The papers laid before the legislature at this session, in regard to the public roads of the Province, showed that some progress had been made in the course of the year. Two sets of commissioners had been appointed to lay out a road between St. John and Sackville and this had been accomplished. This was the highway generally known as the Westmorland road which passed through Hammond River settlement to Sussex Vale and thence by the Bend of Petitcodiac to Sackville, a distance of 135 miles. There was also a road explored from Fredericton which lay along the east side of the River Jemseg and the rapids of the Washademoak and from thence to the Petitcodiac where it joined the Westmorland Road. This road was laid out by Israel Perley, but it was found to be too circuitous and never seems to have been completed. Roads were also laid out from Fredericton to St. Andrews and from the Oromocto to St. John on the west side of the River. But it was many years before the province possessed good roads. In most cases the roads were without bridges, so that the rivers had to be crossed by ferries or fords, and the road itself was little better than a path through the woods. The first settlers of the Province suffered many hardships in consequence of the lack of good roads and they rightly regarded facility of communication with their neighbors as the first requisite of their

comfort and welfare. Yet the means of the Province were so small and the settlers so few that we need not feel surprised if they looked with dismay on their prospects, and sometimes even gave way to despair. They were surrounded by difficulties of every kind, yet out of these difficulties arose a self-reliant, industrious and ingenious population, capable of overcoming every obstacle and laying the foundations, deep and strong, of new and prosperous communities.

In the latter part of 1786, the Commissioners appointed to take evidence with regard to the losses of the Loyalists arrived in New Brunswick. Immediately after the close of the war the Loyalists petitioned the King and Parliament for compensation for the losses they had sustained by their property being confiscated by the rebels during the war, and for being driven from their homes and deprived of their employment. Their claims were admitted and legislation was passed for the purpose of having them adjusted. The act passed created a board of commissioners who were empowered to examine all persons presenting claims under oath, and to send for books, papers and records. The claimants were required to state in proper form, every species of loss which they had suffered and for which they thought they had a right to receive compensation. About six years elapsed before the business of the commissioners was brought to a close and all the claims adjusted. The claimants were divided into eight different classes, of which the first three were the most numerous, as well as the most meritorious.

There were: First, Loyalists who had rendered services to Great Britain, of which there were 204. Second, Loyalists who had borne arms in the service of Great Britain of which there were 626. The other claimants, who were much fewer in number, were Loyal British subjects, resident in Great Britain; persons who took the oath to the Americans, but afterwards joined the British; persons who suffered losses under the prohibitory act; Loyal British proprietors, subjects or settled inhabitants of the United States and Loyal British subjects, who appear to have relief by the Treaty of Peace, but state the impossibility of obtaining it. The British government undertook to pay the first seven classes of Loyalists in full, where their liquidated losses did not exceed £10,000. Where the losses did not exceed £35,000, ten per cent was to be deducted from the excess over £10,000 and where they were between £35,000 and £50,000, the deduction was to be fifteen per cent for the excess over £10,000. For losses over £50,000, the deduction was to be twenty per cent.

With regard to these classes of Loyalists whose losses principally if not solely arose from their loss of office or profession, such as holders of government offices, lawyers, clergymen and doctors, it was proposed that those who had lost incomes not exceeding £400 per annum should receive pensions equal to fifty per cent. of that sum, while on incomes not exceeding £1,500 they were to receive £30 for every £100 exceeding £400. On incomes exceeding £1,500, they were to receive £30 for every £100 exceeding £400. These were liberal arrangements

and they were carried out in a liberal spirit, but the long delay, in adjusting and paying the claims, necessarily caused much suffering. Many of the Loyalists died before their claims were liquidated, but in most of such cases their widows or children were provided for. The final report of the commissioners who had been appointed in 1783 was made in May, 1789, from which it appeared that the total number of claims presented was 5,072, of which 954 were disallowed, withdrawn or not prosecuted. The amount of losses was £8,026,045, of which the sum of £3,292,452 was allowed. The amount of pensions paid to 204 Loyalists on account of losses of office or profession was £25,785 per annum, besides annual allowances to 588 persons, chiefly widows, orphans and merchants who had no means of livelihood, but had lost no real or personal estate except debts due them. It must be admitted that the conduct of the British government towards the Loyalists was liberal, for in addition to these large payments it must be remembered that all the Loyalist officers who fought in the war received half pay during the remainder of their lives. Still there were many complaints, for the owners of property which was confiscated during the war were not likely to rate its value at too low a sum, so that there was a great difference between the claims made and the sums allowed. The commissioners who came to New Brunswick to adjust the claims of the Loyalists, were Colonel Thomas Dundas and Jeremiah Pemberton. They had been about a year in Nova Scotia, having opened an office in Halifax in November, 1785. They visited all the settlements

in Nova Scotia, and in October, 1786, arrived in New Brunswick. Their business in this province was finished in the spring of 1787 and then they went to Canada, returning to England the following year.

Col. Dundas, in a letter which he wrote from St. John to Lord Cornwallis, in December, 1786, makes some interesting statements with regard to the settlers of the two provinces. The new settlements of the Loyalists in Nova Scotia were in a thriving way, although rum and idle habits, contracted during the war, were much against them. These settlers, according to Col. Dundas, had "experienced every possible injury from the old inhabitants of Nova Scotia" who were "even more disaffected towards the British government than any of the new states ever were." This made him doubt whether they would long remain dependent. In New Brunswick he found a very different condition of affairs. It contained good lands, and the farmers who had fled from the states, were well pleased with the soil. The number of Loyalists was 12,000; the old inhabitants were not 3,000, and they, says Col. Dundas, "are a despicable race, ready to sell their improvements, as the Loyalists are enabled to purchase from them." Col. Dundas, had evidently obtained his information in regard to the old inhabitants from some persons who were very unfriendly to them, for the fact that the inhabitants of a new country, where there is plenty of land, are ready to sell their improvements, is no proof that they are a "despicable race." On the contrary, it shows that they have sufficient skill and energy to go into the wilderness and create for

themselves new homes, under more favorable conditions than they enjoyed before. Many such transfers of property were made after the Loyalists came, and they were mutually beneficial, for they enabled Loyalists who were not familiar with woodcraft, to settle down at once upon improved farms, while those who sold, obtained sufficient compensation to reconcile them to beginning anew, the work of hewing out for themselves, homes and farms in the forest. With regard to the productiveness of the country, Col. Dundas said:—"To all appearances, the country will be able to furnish corn, vegetables, and cattle to the West India Islands. Lumber, in the quantity required, they must look for elsewhere. I cannot say much for the industry of the disbanded soldiers, indeed, I cannot say that I ever saw the policy of bribing the soldiers of the line, to leave their regiments—it has by no means answered. All the tradesmen, who would be available at home, are starving here, or gone to the States. The half pay Provincial officers are valuable settlers, as they are enabled to live well, and improve their lands."

Colonel Dundas was no doubt right in thinking that the disbanded soldiers were not good settlers, but he seems to have forgotten that these men, so far from being bribed to leave their regiments, had been disbanded because the war was over and the government had no farther need of their services. With regard to the half pay officers, he mistook appearances for the reality of prosperity. A half pay Captain received £96 sterling a year, equal to about $465 of the money of the present day. This

sum was just sufficient to induce him to think that he might live like a gentleman without work, and on a scale of expense altogether out of proportion to his means. He must keep a liberal table and have wines for his guests, as well as for his own consumption. The result of this system was that most of the half pay officers got heavily in debt; and many of them lost their properties. But the evil did not end with their own lives. Being gentlemen themselves they were ambitious that their sons should follow in their footsteps, and become officers of the army or navy or members of the learned professions. As the ranks of the learned professions were quickly filled, the army or navy became the goal of many an ambitious youth and fathers were ruined, by the expenses incurred by keeping their sons in these services. In families which aimed to make a figure in society, habits of industry were not likely to be learned, and no men were more to be pitied than the sons and grandsons of Loyalist officers, who were brought up with high notions of their own importance and position, without adequate means to support their pretentions. They had no chance in the race of life against men, who had no hopes of prospering, except by the sweat of their brows, and it is sad to think that the names of some of the leading Loyalist families have disappeared entirely, or are represented by persons, whom their ancestors would be ashamed to acknowledge.

The session of 1787, was the last that was held in the City of St. John. Governor Carleton had, for reasons best known to himself, decided that

St. Anne's Point should be the Capital of the Province, and accordingly a town had been laid out at that place, which was named Fredericton, after the second son of the King. The transfer of the seat of government took place in October, 1786, at which time Governor Carleton took up his residence at Fredericton, the first meeting of the Council at that place being held on the 30th October. At that meeting Carleton's new commission as Lieutenant Governor was read, and he was duly sworn into that office. This commission placed Lieutenant Governor Carleton under the jurisdiction of the Governor-General at Quebec, but practically it made no real difference in the administration of affairs. Quebec was then farther away from Fredericton than England is now, the only means of reaching it being by a path through the woods from the St. John to the St. Lawrence, over the route, which had been followed during the war of the Revolution, by the bearers of despatches between Quebec and Halifax. The difficulty of communication was illustrated in Carleton's own experience, during the winter of 1787-88, as related by him in a despatch to the Secretary of State. In March, 1788, hearing of the serious illness of his brother, Lord Dorchester, he walked on snow-shoes from Fredericton to Quebec, a distance of nearly 400 miles. So little was the country settled, that he had to pass eight nights in the woods.

At the time when Fredericton was made the seat of government, it had no means of communication with other parts of the province, except by the River St. John. The change from St. John to

Fredericton was therefore looked upon with great disfavor by a majority of the members, as well as of the inhabitants of the province. But in this matter, the Governor was all powerful and could not be controlled, except by the home authorities, who knew nothing whatever about the circumstances of the case, or the inconvenience the change would cause. Looking at the matter now in the light of experience, it is evident that the selection of St. Anne's Point was a mistake. St. John was certainly the most convenient place for the seat of government, but if it was necessary to place the capital on the river, the land at the mouth of the Oromocto should have been chosen. That point is the head of deep water navigation, it is at the junction of a navigable river with the St. John, and the land is much better suited from a sanitary point of view, for the site of a city, than St. Anne's Point. This, however, is a matter which cannot now be amended, and which is only mentioned for the purpose of showing how much injury may be inflicted on a community, by the error of one man who happens to be in a position of authority.

As there were no roads to Fredericton, it was impossible to hold the session of the Legislature there during the winter, so that the Assembly did not meet until the 18th July, 1788. The House had been called together three days earlier, but there were not enough members then present to make a quorum. Some of the members did not attend at all. Mr. John Yeomans, the member for Queens, in answer to the summons requiring his immediate attendance, wrote to the House that he could not

attend, because it was the worst season of the year, both his grass and grain being fit to cut and there being nobody to do it but himself. There were other members of the House in the same position as Mr. Yeomans and who like him, were unable to attend. This was one of the difficulties which were the direct result of the change in the seat of government.

The principal subject at this meeting of the Legislature, was the payment of members of the House. This matter became a political issue, and in the end brought on a conflict between the Assembly and the Council, which resulted in the province being left without an appropriation bill for four years, and without a revenue bill for three. This deadlock, however, did not occur immediately, and in 1788, the contest over the payment of members was confined to the floors of the House of Assembly. The principal opponent of the payment of members was Mr. Chipman, the Solicitor General, a gentleman who was in the enjoyment of a military pension from the British government, and who, during the whole course of his life, was always looking for public money. Yet Mr. Chipman, was so determined that no other member of the Legislature should get any public money, that he divided the House no less than twenty-three times, on the question whether the sum of one hundred and forty pounds should be paid to the members by way of indemnity for their expenses. This sum divided among twenty-six members would give them less than twenty-two dollars each, which was certainly not an excessive sum for sixteen days

attendance as members of the Legislature. Mr. Chipman, sought to commit the House to the principle that the payment of members was contrary to the ancient and established usage of Parliament, and to the spirit of patriotism and magnanimity, which should characterize the House of Assembly, and also because it would introduce a precedent pregnant with injustice and derogatory to the honor and dignity of the House. He was only able to rally four members to his support, when the vote was taken, the Attorney General, Colonel Billopp, and Messrs. Wm. Pagan, and McGeorge, all representatives of St. John. On the other side, eight members voted, Major Murray, and Mr. Stelle of York, Messrs. Hubbard, and Vanderburg, of Sunbury, Mr. Dickinson, of Queens, Mr. Campbell, of Charlotte, and Messrs. Hardy, and Davidson, of Northumberland. Only thirteen members, exclusive of the Speaker, out of a House of twenty-six, took part in these divisions, and the journals show that during this session, twelve members were absent, three each from Westmorland and Charlotte, two each from York and Kings, and one from Queens and St. John. The only counties fully represented were Sunbury and Northumberland: Kings was not represented at all.

The revenue of the province continued to increase, but not very rapidly. From the 15th February, 1787 to the 30th of June, 1788, the sum of £1,308 2s. 7½d. was collected in duties of which, £1,218 14s. 9d. was obtained in St. John. At that port no less than 139,020 gallons of rum paid duty, an enormous consumption of liquor for so small a population.

The founders of New Brunswick had many excellent qualities, but temperance was not one of them. The report on the Treasurer's accounts gives no detailed statement of the expenditure for the year, so we are left without that very necessary information. The gross sum expended was £909, 4s. 0d., leaving a comfortable balance of £1,127, 19s. 5d. still remaining unappropriated, or at all events unexpended. Perhaps it was the existence of this balance which emboldened a majority of the members of the House to vote themselves an indemnity for their services.

The legislation of 1788 was not very important. Only ten acts were passed, and most of them were amendments to previous acts. The growing importance of the port of St. John was recognized by the passing of an act to provide for the support of a light-house to be built on Partridge Island. This light was to be maintained by dues levied on vessels entering that port. Another act empowered the Justices of the several counties in sessions, to make regulations respecting markets and ferries. The justices in session, were also required to appoint overseers of the fisheries whose duty it was to see that the law was not violated with respect to the setting of nets and other matters connected with the fisheries.

CHAPTER XIII.

THE Indians of New Brunswick could not be expected to view with favor, the rapid progress of settlement by the whites, for every tree that was cut down in the forest, restricted the area of their hunting grounds. Yet they had never given the settlers much trouble and at no time, in the history of the province, has there ever been anything like a state of war between them and the whites. But in the progress of settlement, it was natural that difficulties should arise and sometimes they assumed a serious aspect. In May, 1786, two men named David Nelson and William Harboard, who had been soldiers in the Queen's Rangers, shot an Indian named Pierre Bonwah. This threw the Indians into a great state of excitement and they demanded justice against the culprits. Their principal settlement was near Judge Allen's house, and they camped around it and expressed their determination to remain there until the case was decided. On the other hand the white settlers were not well pleased that any white man should be tried for his life for shooting an Indian. The authorities were placed in a difficult situation, but it was evident that the ends of justice would best be served by bringing the alleged murderers to a speedy trial. This was done on the 13th June

and both prisoners were found guilty. Nelson, who was the principal, was hanged ten days later, but Harboard was pardoned. The Indians were not well pleased, as they thought both men equally guilty and their attitude towards the whites, for some time, was so menacing as to excite alarm. Governor Carleton wrote to Sir Guy Carleton in the latter part of the year, that the settlers in the upper part of the river were alarmed by the menaces of the Indians in that district, and to quiet their fears he had established a temporary depot of provisions and arms among them, so that in the event of the Indians attacking them, they might keep together and defend themselves until help reached them. Fortunately, this precaution proved to be unnecessary, for the Indians made no attack and the cause of the trouble was in the course of time forgotten. Efforts were made to improve the condition of these unfortunate children of nature, although it cannot be said with any great degree of success. The Indian, in New Brunswick at least, has not yet been raised to the level of the white man.

Among the agencies organized prior to the Revolution, for the purpose of civilizing the savages, was a society formed in England, for the purpose of propagating the gospel among the Indians. This Society, which mainly did its work in the State of Massachusettts, was generally known as the New England Company, and its funds were largely appropriated to general educational purposes by Harvard College. In 1786, the Company decided to abandon New England, which was no longer

under the King's government, and begin work in New Brunswick. Accordingly commissioners were appointed in this Province to supervise the work of educating the Indians, Lieutenant Governor Carleton being at the head of the Commission, while associated with him were Chief Justice Ludlow, Judge Allen, the Hon. Jonathan Odell, George Leonard, Ward Chipman, Jonathan Bliss, William Paine and John Coffin. Schools for the Indians were established at Woodstock, Fredericton, Sheffield, Sussex and Miramichi and a considerable number of Indian children were taught to read and write. After a time the commissioners thought that better results would be achieved, if all the Indians, who desired an education, were collected in one place, so that they might be taught farming, as well as the ordinary branches of a common education. Sussex was selected as the most eligible place for this Indian school or College, and the establishment was maintained there until the year 1833, when the company retired from this missionary field. In the course of 47 years they had expended in this province about $140,000 of which more than $40,000 went to officials, who had nothing to do with the work of instruction. For instance, the Hon. John Coffin, a half pay Lieutenant General in the British army, received £125 sterling a year, as superintendent of the school, although it was located at Sussex while he resided at the mouth of the Nerepis in the parish of Westfield, and probably did not see the school once a year. Ward Chipman received £50 sterling a year, as secretary treasurer, which was nearly double

the salary given to the teacher of the school. The chaplain was Rev. Oliver Arnold, who received £50 a year and who boarded a number of Indian youths in his family at the rate of £20 a year, and what work they were able to do after school hours. The disbursements of the Company on account of the Indians in New Brunswick amounted to about £770 sterling a year or $3,700. The Indians complained that the academy was of very little benefit to them, because very few of them could live at Sussex. Certainly it would have been much better to maintain ten or twelve small schools in different localities for the teaching of Indian children.

The school was exposed to much criticism, and among those who were dissatisfied with it were three of the commissioners, Chief Justice Ludlow, Judge Bliss and Judge Allen who resigned in 1804. The Honorable George Leonard, who built the new structure for the academy at Sussex was accused of jobbery, and in a letter to Edward Winslow blamed the Chief Justice and his myrmidons for circulating false reports about him. Leonard's letter is that of a very angry man, but whether it is calculated to convince every one of the innocence of the writer may be doubted. Perhaps the best proof that could he supplied of the failure of this school is the fact, that when it ceased to exist, it left no trace behind to show that it had ever been. The Indians whom it had undertaken to teach agriculture, the arts of civilization and the Protestant religion, relapsed at once into barbarism and returned to their ancient faith. There are now no Protestant Indians in New Brunswick, and there are none which live after the

manner of white men. The Indian declines to engage in the steady toil of the farm ; his home is the forest, and he makes himself useful in work pertaining to the wilderness as a guide, axeman or river driver. If he has not risen in the social scale that may be due to the conduct of the white man who also refuses to treat him as an equal. It is difficult to see how a man of the greatest genius could rise superior to the squalid and uncongenial surroundings of an Indian wigwam. So far no New Brunswick Indian has risen to any prominence, except as a guide, and the majority of them show no desire to improve their lot. They prefer their own free mode of life, and it is a singular fact that there is a stronger tendency among white men to lapse into savagery than there is among the Indians to become civilized. Apparently the best that can be done for them at present, is to teach them the common branches of education, provide them with religious teachers of their own faith, and keep them from liquor, which is the bane of all the race. All these things are now attended to by the Dominion and Provincial governments, and at prcsent it seems impossible to do more.

In 1789, the Legislature did not meet until the 15th October, a time when it was supposed the members would have more leisure than during the the summer. The House had been called together on the 6th October, but it was not until the 15th that a quorum could be obtained. During most of the session there was a bare quorum, as about half the members were absent. The only Westmorland member who put in an appearance, was the Speaker,

and Charlotte which also sent four members, was represented only by Mr. Robert Pagan. Two St. John members, and two York members were absent, and Queens, Northumberland, and Sunbury were each short one member. This was the natural consequence of the removal of the Legislature to a town to which there was no road but the River. Governor Carleton himself, seems to have realized this fact, for the only recommendation he made in his opening speech was that the Legislature should encourage the establishment of proper roads to Fredericton.

The accounts of the Treasurer showed that the revenue of the Province, for the fifteen months ending September 30th 1789 was, £1,230 13s. 3d. Of this sum, £1,224 2s. 1d. was collected in St. John, where the importation of rum reached a total of 119,790 gallons. No return was received from any other county but Westmorland. The only account of expenditure is the payment of £53 6s. 8d. for printing the acts of the previous session. This left a balance of £1,177 6s. 7d. in the hands of the Treasurer. This year, we have for the first time, a statement of the arrivals of vessels at St. John which had dutiable goods on board. From this return it appears that from the 1st July, 1788, to the 30th Sept., 1789, there arrived at St. John, thirty-two sloops, seventeen schooners, and a brig from the United States; four sloops, fifteen schooners, twelve brigs, and a brigantine from the West Indies, and two sloops, two schooners, a brig, and a ship from Nova Scotia. These figures, show sufficiently well, the course of

trade. The United States port, with which most business was done, was New York, from which flour and other breadstuffs were largely imported. Goods, mainly sugar and rum, were imported from most of the British West Indies; Jamaica, Barbadoes, Grenada, Antigua, and St. Christopher, all contributing to this trade. The return shows a very creditable state of commercial development, for the brief period the country had been settled. The merchants of St. John were already extending their business, in every available direction, and giving their city that character for enterprise and energy, which it has ever since retained.

The acts passed in 1789, were nine in number, and none of them of very great importance. One of them was to provide for the erection of an ecclesiastical parish in the City of St. John, and to incorporate the Rectors, Church wardens, and vestries of the Church of England in the several parishes of the Province. Another act provided, that persons convicted of felony, without benefit of clergy, instead of being branded in the hand, might be fined or whipped, except in cases of manslaughter. The criminal code of the Province, although based on that of England, was from the first less cruel in its operation than in the mother country, but it was not until the year 1829, after the passage of the English Act, 9th George IV, that the Legislature of the Province declared inoperative a number of old laws dealing with crimes, which had disgraced the English statute book.

At this time there was a disposition to encourage certain lines of industry in the province by means

of bounties. There was but little money in the treasury, but it was thought some of it might be properly used in this way. On the last day of the session of 1789, a series of resolutions passed the House of Assembly, giving bounties to persons who should erect the first malt kiln in the city and county of St. John, and also to persons growing the largest quantity of good merchantable barley, hops and wheat.

There was no session of the Legislature in 1790, but early in February, 1791, the Provincial Parliament met. Two new members appeared to be sworn in, one of whom, Mr. James Glenie, a representative of Sunbury, was destined to exercise a considerable influence on the politics of the province. No House of Assembly was likely to be a very restful place which contained Mr. Glenie. This gentleman was a native of Scotland and had been an officer in the Royal Engineers. He became a resident of Sunbury County and soon began to take an interest in public matters. Glenie was a reformer of the most advanced type, and was a full half century in advance of his time. We look upon Howe and Wilmot and Fisher as our leaders in reform in the Maritime Provinces, but James Glenie was a reformer, and was doing good work in the Legislature before either Howe, Fisher or Wilmot was born. No man who ever sat in a New Brunswick legislature was a greater reformer than James Glenie and if he had been able to carry his ideas into effect, New Brunswick would have had responsible government half a century before it was obtained.

Glenie suffered the fate of all reformers in that he was not beloved by those whose methods he attempted to mend. The Governor and all the Governor's friends detested him most cordially, and if he had any love for them he dissembled it admirably. The Governor called Glenie "a son of Belial" and Glenie described the Governor as "a man wholly unfitted for his office." Glenie was not tender in his treatment of the Governor's friends. The Chief Justice is described as "Ludlow, the ignorant, strutting Chief Justice." and Billop as "an ignorant, uncouth Dutch boor." It is only fair to say that the description given of Chief Justice Ludlow by Judge Jones of New York, is not much more flattering than that of Glenie. The official view of Glenie, is perhaps best expressed in a letter, written by Capt. Lyman, who had been a representative of York, in the House of Assembly. Lyman speaks of the member for Sunbury as "that vagabond Glenie" and expresses the greatest regret "that there is not enough good sense and loyalty in the country, to keep out a known and most notoriously violent Democrat and Jacobin." Lyman declares that if he had been present at the Sunbury election, he would not have scrupled "to come forward boldly and assert to the country, that he was an avowed democrat and that I would prove it." Lyman evidently thought that this would have done the business, and there was some ground for this belief, for in that day, to call a man a Democrat, was about the same as it would be today to call him an assassin, or an incendiary. To disturb the existing state of affairs

and to give the people a larger share in the government of the country, was looked upon as little better than treason. From the very first, Glenie took an active part in the business of the House, and it was not long before he crossed the Governor's path. That functionary had developed in his brain a remarkable scheme, for fitting up a portion of the Church in Fredericton, for the accommodation of the Legislature and the Supreme Court. A committee consisting of Messrs. Dixon, Glenie, Rodgers and Hardy and Capt. Lyman was appointed to examine and report upon the Governor's plan, and their report was adverse. It is hardly conceivable that such a scheme should have been seriously entertained, at any period in the history of this province, and perhaps we may find a means of measuring Governor Carleton's capacity, in the fact that he made such a proposal, and was seriously offended, because it was not adopted.

Glenie also took an active part in the discussions on an Act, which was passed in this session, for regulating marriage and divorce. This act was intended to supersede one which had been passed in 1787, with a suspending clause, and which had been referred to the Home authorities, the Bishop of London and the Bishop of Nova Scotia, and found satisfactory. The new act placed the power to solemnize marriages, in the Clergy of the Church of England, and in parishes where there was no clergyman, in Justices of the Peace. No recognition was given to Methodists, Baptists or any other denomination dissenting from the Church

of England, but ministers of the Church of Scotland, Quakers and Roman Catholic priests, were permitted to marry persons belonging to their own communion. Glenie and others endeavored to make this act more liberal in its provisions, so as to give the right to marry to clergymen of all denominations, but he was defeated on a test vote by 11 to 6. Messrs. William and Robert Pagan, James Campbell and Colin Campbell, all Presbyterians, voted with him, and also Mr. Dixon of Westmorland, who was a Methodist. Every member of the Church of England, in the House, voted against Glenie's motion. This marriage question became an issue of no small magnitude in later days, but it was not finally settled until almost half a century had passed away.

The act to provide for the election of members of the House of Assembly, which was passed at the first session of the Legislature had been disallowed by the home authorities because the qualification of voters was too low, so that it became the duty of the Legislature to pass another measure, which would be more satisfactory to Downing Street. The new act differed only from its predecessor, in the fact that, it raised the qualification of a voter from the ownership of a freehold worth twenty pounds to one worth twenty-five pounds. The members of the House must have laughed in their sleeves, as they solemnly made this concession to a Secretary of State, who knew no more of the condition of affairs in New Brunswick than the desk at which he sat. The whole affair was a farce from beginning to end. After keeping the former

bill for four years, until it was totally forgotten, it was necessary to find some excuse for the neglect with which it had been treated and the easiest way out of the difficulty was to disallow it. So the form of passing another act was gone through with, although everyone knew that the raising of the freehold qualification by five pounds would not make the difference of a single vote in the electorate of the province. This act required members to have a freehold of the value of two hundred pounds within the county for which they were chosen. In the City of St. John freemen, who had personal property of the value of twenty-five pounds, had the right to vote. Polling lasted fifteen days and the term of the Assembly was seven years, unless sooner dissolved. The fate of this act was not without an element of comedy. It was promptly forwarded to England by the Governor, and referred to the law officers of the Crown, who reported favorably on it. Then it disappeared and could not be found, and it was not until June, 1795, that it was finally ratified by the King in Council. In the meantime another general election had been held under the Governor's authority and with the same franchise as the election of 1785.

A section of this act required a voter if challenged, to take the oath prescribed by the Act passed by the British Parliament in the first year of the reign of George I. This oath of Supremacy, as it was termed, could not be taken by a Roman Catholic, and as a consequence, all persons of that faith, might be prevented from voting, if challenged. At the session of 1791, a bill was introduced by











PREMIERS OF NEW BRUNSWICK.

Hon. D. L. Hanington
Hon. Geo. E. King
Hon. Andrew G. Blair
Hon. H. R. Emmerson
Hon. J. J. Fraser

Mr. Hardy, to enable Roman Catholics to vote for members of the Assembly, and it was actually passed in Committee, but on the third reading it was defeated. The Journals do not give the names of those who voted, so that we are left without information as to the persons whose bigotry stood in the way of an act of justice. This wrong was not remedied until the session of 1810, when an act was passed, repealing the provisions of the former act, with respect to oaths, and requiring the elector merely to take an oath of allegiance. Then for the first time Roman Catholics obtained the right to vote at elections, and to take their proper share in the government of the country.

Shortly after the opening of the Legislative session of 1791, it was announced that Mr. Stelle, one of the members for York, had left the province, and did not intend to return. Upon this, his seat was declared to be vacant, and a writ was ordered issued, for the election of a new member. The only person who offered as a candidate, was Mr. Justice Saunders, who had been elevated to the bench of the Supreme Court a few months previously. Judge Saunders was declared elected, and before the end of the session he was duly sworn in as a member without any objection being raised. All his associates on the bench were members of the Council so that it seems not to have been thought improper that a Judge should become a member of the House of Assembly. Judge Saunders, sat in the House during the sessions of 1791 and 1792, but in 1793, he was appointed to the Council and the House of Assembly,

saw him no more in the capacity of a member. Judge Saunders had been an active Cavalry officer, attached to the Queen's Rangers during the war of the Revolution, and his raid into the House of Assembly was quite in keeping with his character for boldness and vigor. Saunders was a better Cavalry officer than he was a legislator or judge. He was the only member of the Supreme Bench of New Brunswick, who ever sat in the House of Assembly, yet up to the year 1849, there was nothing to prevent a judge becoming a member of the Assembly, and it was not until 1873, that all judges were excluded from the British House of Commons.

An act was passed at this session which settled for ever the question as to the validity of acts of the Legislature of Nova Scotia passed at the time when New Brunswick was a part of that province. This act declared that no law of Nova Scotia should have any force or validity in New Brunswick, but that the act was to have no retrospective operation.

The revenue of the province for the fifteen months ending the 17th of January, 1791, amounted to £1,569 7s. 6d., of which £1,426 1s. 5d. was collected at St. John. This was an increase, but it was due not to increased trade, but to higher duties. The rum imported at St. John reached a total of 86,218 gallons, which was not much more than two thirds of the quantity imported during the previous fifteen months. But the duty on rum was now 2d a gallon, so that with a smaller consumption of liquor there was a larger revenue. The cause of this

decline in imports is not quite clear. It may have been because the people were becoming more moderate in the use of liquor, or it may have been the result of a decline in population. There is some reason for thinking the latter reason to be the true one. Rum was not the only article that showed a decline; there was also a decreased import of breadstuffs. At this period a good many people were leaving the province some of whom went to Canada, while others returned to the United States. Of the twenty six members of the first legislature elected in 1785, no less than six left the province before the term of the legislature expired. If the other inhabitants abandoned it in the same proportion as the members of the Legislature, there must have been a very large emigration from it between 1786 and 1792.

At this time a question arose between the home authorities, and Governor Carleton with regard to the proper place in the province for a military depot. In 1791, it had become evident that war with France was imminent, and it became necessary that New Brunswick should be put in a proper state of defence. Governor Carleton had made Fredericton the capital of the province at a time when the military features of the selection did not seem to be important, but when he proposed to place the military depot there and fortify the place, the Duke of Richmond, who was Secretary for war, objected. Carleton was fond of surrounding himself with military pomp and at this time he kept the larger part of two regiments at Fredericton who had no other duties but to mount guard over his residence. Carleton

objected to St. John as the military depot, because it was on a harbour open all the year round, but the Duke of Richmond thought this a strong argument in its favor. He was of the opinion that a military depot should be accessible to the King's ships at all times, and not ninety miles up a river that was only navigable for light craft, and that was closed by ice five months in the year. Besides he pointed out that Fredericton, being in a valley dominated by high land, was incapable of being fortified, while St. John could be fortified without difficulty. The fact that Carleton should have seriously proposed to leave St. John undefended, and to fortify Fredericton, may be taken as a measure of his military capacity, for it ought to be evident to the meanest understanding, that if St. John was occupied by an enemy, Fredericton could neither be reinforced nor supplied with food and ammunition, and therefore could not be held at all. Carleton's project for fortifying Fredericton was therefore nipped in the bud, but he succeeded in obtaining permission to build a costly barracks there, and he established two fortified posts farther up the river, at Presque Isle and Grand Falls, which he garrisoned by three companies of infantry. As there were no roads, the difficulty of sending supplies to these up river posts was great and the cost excessive. Glenie in a letter to Secretary Nepean, says that both these posts were well within the limits of the United States, and that the only reason given for their creation was to encourage the settlement of the upper part of the river, for neither the engineer nor any other military man was consulted.

When the Loyalists came to New Brunswick many of them brought slaves with them, who continued to live with them and work, for the remainder of their lives. Just how many slaves came to New Brunswick can never be known, but one may infer that the larger part of the 441 persons, who were classed as servants in General Campbell's muster made in 1784, were negro slaves. But this institution never took any firm root in the soil of the province, and although slaves were occasionally bought and sold, that kind of property was not regarded as valuable. The conditions of life in the province were against it, and the sentiments of the people were not in its favor. Slavery was never recognized by any act of the legislature, and in the course of time a doubt arose whether it was legal. This doubt was intensified by the result of a case, which arose in the Supreme Court in 1800. It came up on the return of a writ of Habeas Corpus issued by Judge Allen to Caleb Jones, directing him to bring into court, Nancy, a colored woman in his possession, whom he claimed to hold as a slave. A great deal of interest was taken in this case and much feeling was aroused, for it was evident, that the value of all the property in slaves in New Brunswick, depended upon the decision. No less than five counsel appeared for the master, and as these men were the leaders of the bar, and their services must have cost a good deal of money, it is perhaps not unreasonable to infer that Jones, the master, was assisted by other interested persons in the defence of slavery. The counsel for the master were Jonathan Bliss, then

the Attorney General and afterwards Chief Justice, Thomas Wetmore, who succeeded Bliss as Attorney General, John Murray Bliss and William Botsford, both of whom were afterwards Judges of the Supreme Court. For the slave appeared Ward Chipman and Samuel Denny Street. The Court divided on the question, the Chief Justice and Judge Upham being of the opinion, that under the existing laws of the province, negroes might be held as slaves, while Judge Allen and Judge Saunders thought that as slaves could not exist in England, neither could they in New Brunswick. Under this decision, the master took back his slave, but its practical effect was almost as great as if slavery had been declared illegal. For, if the Court could not declare that slavery existed, any turbulent negro might escape from his master and set him at defiance. Judge Allen, as the logical consequence of his own decision, liberated all his slaves, and it was felt that from that time, slave property was of little value. In the course of the next ten or fifteen years, slavery died out altogether, although no person can state exactly the time when it ceased to exist.

But all the negroes who came to the province with the Loyalists were not slaves. Some of them were free men, who had given their services to the British armies during the war, while others had escaped from slavery to the British lines, and remained under the protection of the flag. The latter had been emancipated by the proclamation of Sir Henry Clinton, and Sir Guy Carleton refused to restore them to their masters at the end of the war.

A distinction was made between these free negroes and those who had escaped from slavery; the former received grants of land with their corps; the latter were considered as only entitled to asylum and freedom, but they were granted lots in St. John, and remained on them as long as rations were served out. Then they began to make demands for farms, and three tracts of land were laid out in fifty acre lots, for their use. But only five of the negroes, to whom lots were granted, attempted to cultivate them, most of them having entered into the service of families. At this time Nova Scotia, had a still larger number of discontented black people on her hands, and as many of them complained of the climate and expressed a desire to go to Africa, they were shipped to Sierra Leone. Of the New Brunswick negroes, 222 were sent, at their own request, to Digby, to be shipped to Africa. The British government would have preferred them to enlist for service in the West Indies, but Africa was the land of their choice and to Africa they went.



CHAPTER XIV.

THE Loyalists, when they came to New Brunswick in 1783, appear to have had a very inadequate idea of its forest wealth. Much of the land in the vicinity of the St. John river, had been burnt over, and the timber upon it destroyed, and nothing was known of the resources of the vast wilderness, that extended from the St. John to the Miramichi, and north to the Restigouche. As a consequence of this, the exportation of lumber on a large scale, did not enter into the calculations of the first settlers, and in 1786, we find Col. Dundas, stating that New Brunswick would not be in a position to supply the West Indies with sufficient lumber. But as the Province became more fully explored, it was seen that its resources in lumber were great, and enterprising men began to build mills, with a view to utilizing it. In the course of a few years, the Province, which, at first had been unable to supply itself with boards, for its necessary buildings, began to export lumber of all kinds in considerable quantities, and especially pine timber. But, there was a difficulty, with regard to the supply of this article, which greatly impeded the business, and limited the quantity of timber available. In those days of huge line of battle-ships, and large frigates, the British Government found it difficult to obtain

masts for the navy, and New Brunswick was looked upon as one of the most important sources for the supply of masts. In the reigns of George I. and George II., long before New Brunswick had a legal existence, acts had been passed forbidding the cutting of pine trees in the colonies of 12 inches in diameter and upwards. These acts were applied, not only to the ungranted wilderness, but to townships laid out or to be laid out hereafter, and the owner of land upon which pine trees of that size grew, did not possess the right to cut them until he had obtained a license from the Surveyor of Woods. In many of the grants that were issued, there was a special reservation to the King of all white pine trees growing upon the land, and where the grants did not contain this clause, it was well understood that the acts in question prevented the cutting of pine timber, even by a proprietor on his own land. Sir John Wentworth, the King's Surveyor of Woods and Forests in North America, was too zealous an official to permit the King's interests to be disregarded, and in 1790 and 1791 much pine timber had been seized by his deputies, which private owners had cut on their own land. As every pine tree, no matter where it grew, was claimed by the Crown, the contractors who were engaged in cutting masts for the navy, did not hesitate to go on the lands of private owners and strip them of their pine trees. This led to lawsuits and also caused many complaints to be sent to the Governor, who in this instance showed that he was in sympathy with the unfortunate land owners. In

a letter to the Secretary of State, he suggested the abandonment of those restraints on private property, which tended to discourage cultivation and settlement, especially as the reserves of pine lands were sufficient. These reserves were tracts of land in various parts of the province, which were supposed to contain pine timber fit for masts, and which were locked up against settlement. The question of the utility of these reserves came up at a later day.

Sir John Wentworth vigorously opposed any relaxation of the restrictions in cutting pine timber, which he thought would be detrimental to His Majesty's interests, but some modification of them could not be avoided. An order was passed by the Home Government requiring the Surveyor of Woods to grant licenses to proprietors of lands, to cut and take away such pine timber as was unfit for His Majesty's service, and the standing of which was detrimental to cultivation. But before these licenses were granted, the deputies of the Surveyor of Woods had to inspect the timber and mark those for reservation that were fit for the navy. Under this system, all restraints on the cutting of pine timber on private lands gradually ceased, and in the course of a few years, the clause in the grants, reserving the pine trees for the use of the King, was withdrawn. The closing of the Baltic ports in consequence of the war with France, caused a great demand for pine timber from the colonies, and the large profits of the business of getting timber caused so many persons to engage in it that even the reserves were invaded and stripped of their

pine trees. This was the beginning of the New Brunswick timber trade, which afterwards assumed such large proportions, and absorbed so considerable a part of the energy and enterprise of the Province.

The session of 1792 was the last of the first Legislature of New Brunswick. This Legislature had on the whole done good work for the province, although some of its acts could not be commended. Its personnel had altered considerably in the course of six years. Three members had died and six left the province in that time, so that there was a considerable infusion of new blood. This had strengthened the popular element in the House, so that although the friends of the Governor had still a majority, it was not always to be relied on. This was shown by the vote on the bill for fixing the terms of the Supreme Court. The removal of the Supreme Court to Fredericton had caused a great deal of inconvenience to suitors and was felt to be a grievance, although it was one of the pet schemes of the Governor. In 1791 a bill was brought in by a committee appointed to prepare it, having for its object that one of the four terms of the Supreme Court should be held in St. John. This was carried in the House by a vote of 9 to 5, the minority being composed of three members for York, one from Kings and one from Sunbury. When this bill reached the Council it was promptly thrown out. In 1792, the same bill was again introduced and passed the House by a vote of 11 to 6. The minority consisted of three members for York, two from Northumberland and one from Queens. The majority was made up of the four members from Charlotte, three from

St. John, and two from Westmorland, and one from Kings and Sunbury. This bill was thrown out by the Council as promptly as the previous one had been. The Governor's friends in the Council were more faithful to him than those in the Assembly, for the latter were beginning to discover that the interests of their constituents and those of the Governor did not always agree. It is worthy of note that when the House was divided on this question, Mr. Chipman, the Solicitor-General, was absent. Mr. Chipman was a great friend of the Governor, but he was likewise a representative of St. John, and another election was near. On the other hand, Mr. Hardy, who had started as a friend of the people, and had been soundly abused by the Governor's friends, voted against the bill. He had become a friend of the Governor, and two years before, the latter had appointed him Common Clerk of St. John.

At this session a grant of one hundred pounds was made for the support of a provincial seminary of learning. This was the first grant for education made by the Province of New Brunswick. It was the result of a correspondence, which had taken place between the Secretary of State and the Governor, which was laid before the Legislature. In the first letter of this series dated the 3rd June, 1790, the Secretary of State, after referring to what had been done towards establishing a college in Nova Scotia, states that it is the intention of the King to establish within the two English universities, foundations for the maintainance of a certain number of young men, natives of his North American dominions, who were to be elected from

the College in Nova Scotia or any similar institution, in any other British Colony in America. These young men were to finish their education in England and, after being admitted to holy orders, to be sent to British America as clergymen. The Secretary of State closes his letter, by asking the Governor to send him information with regard to the ecclesiastical establishment in New Brunswick and the places of education from which young men might be selected. Replying to this, Governor Carleton informed the Secretary of State, that in December, 1785, the Attorney and Solicitor General were directed by the Governor in Council, to prepare the draft of a charter for an academical establishment, for the education of the youth of New Brunswick, and a large tract of land in the vicinity of Fredericton was allotted for its support. A grant had been passed to a number of persons of these College lands, and the rent reserved from these lands amounted to about one hundred pounds a year, which was all the revenue the Academy had. The Governor also informed the Secretary of State, that there were then six clergymen of the Church of England residing in the Province, whose incomes consisted of the salaries allowed them by the Society for the Propagation of the Gospel, in addition to one hundred pounds allowed to each of them in the annual grant of Parliament, the glebe lands being as yet unproductive. The Governor stated, that there were eight counties and thirty-nine parishes in the province, and that any estimate of the ecclesiastical needs of the province, ought to be based on the idea that one clergyman at least

would be required for each parish, and that some of the existing parishes would require to be subdivided at some future day. This result has long ago been realized and there are now seventy-five clergymen of the Church of England in this Province, and the Church is in a much more vigorous condition than when the stipends of its ministers were paid by the government. The Legislature showed its appreciation of the need of more encouragement to education, by placing the sum of one hundred pounds in the appropriation bill, for the benefit of the Academy at Fredericton. This grant became an annual one, and, in the course of time, Fredericton Academy has grown into the University of New Brunswick.

In 1791, Mr. Glenie was one of three members appointed by the House to examine and report on the Treasurer's accounts, and they discovered some irregularities, one of these being that the brig Active from New York entered with certain dutiable articles at the Naval Office—and afterwards cleared for Jamaica, without having any of these articles on board, yet no mention was made of her in the accounts. This fact was reported to the House, without any comment, but at the next session of the Legislature, an act was passed to restrain all persons that may be concerned in the collection of import duties, from owning any vessel, or trading, or dealing, in dutiable articles. This was sufficiently significant, and from whatever cause, it is certain that the revenue for the twelve months ending in February, 1792, showed an increase over the former figures. The total revenue for the year

was £1,420 12s. 0d., of which £1,362 17s. 11d. was collected at St. John. The imports of rum amounted to 63,706 gallons, which was a decline from previous figures, but there was an increase in other directions. After paying all warrants drawn on the Treasurer, the province was shown to have in hand at the end of the year £296 10s. 5d.

The Legislature was dissolved in December, 1792, after having been in existence seven years. The new House differed very materially from its predecessor in its personnel. Only one of the former St. John members, Mr. Pagan, was returned by that constituency. Mr. Chipman had to seek refuge in Northumberland. Of the Westmorland members, Speaker Botsford was the only member of the former House that was returned. In Charlotte, two old members, Pagan and Clinch, and two new ones, were returned. In York, a similar result was seen, the old members re-elected, being Murray and Lyman. Northumberland sent two new members, one of whom had been in the former House as a representative of St. John. Sunbury and Queens each sent one new member, and one old one. Kings returned Coffin and Fanning, who had sat in the former House. The new House, therefore, contained 12 old members and 14 new ones, so that the traditions of the former House were not likely to exercise much influence on the one just elected. That proved to be the case, and the Governor found it so little to his taste, that after it had sat three sessions, he was very well pleased to have an excuse for dissolving it in the fact that the Election Act, passed in 1791, had been ratified by the King in Council.

Up to the session of 1793, there had been no serious differences between the House of Assembly and the Council. The latter had thrown out bills passed by the Assembly, but there was no conflict of principle sufficient to produce a deadlock. But the session of 1793 saw an entire change in this respect, and marked the beginning of a period of bitter hostility between the two Houses, which in its consequences was very injurious to the public interests. The Legislature, met on the 12th of February, and there was a good attendance of members, only three being absent when the Governor delivered his speech. One of these absentees was Mr. Glenie, who, although re-elected for Sunbury, did not attend either the session of 1793 or of 1794. Mr. Glenie was in England during these years, and while there, did not forget to do what he could to aid the cause of reform in New Brunswick. The opening speech of the Governor indicated that something had displeased him. He began by saying that "When the foundations of a provincial establishment were completed, and a House of Representatives became a constituent branch of the Legislature, it was, in each department, considered as a fundamental maxim, universally to regulate our proceedings by those models only, which have been sanctioned, in similiar cases; by the practice of the parent state; and in cases peculiar to our local situation, or to the subordinate condition of a province, to deviate from those venerable rules no further than necessity should require." It is not quite clear what the House of Assembly had been doing to deserve such a lecture,

but it may be that the Governor thought the new House needed some instructions with regard to its duties, so many of its members being new men.

It soon became evident, that the friends of the Governor were not in a majority in the new House. There was a test vote on the answer to the address on the clause, relating to the proposed building for the Legislature and the Supreme Court. The Governor's friends desired that the town of Fredericton should be specified as the place where this building was to be erected, but this was defeated by a vote of 15 to 7. The Governor's friends in this instance, were led by Mr. Chipman, who, although a resident of St. John, had supported the Governor in his removal of the seat of government to Fredericton. Col. Winslow attributes the loss of Chipman's seat to this fact, but there were other reasons why Chipman was not popular in St. John. Winslow was so much vexed at the defeat of Chipman, that he wrote to Gregory Townsend, "Our gentlemen have all become potato planters, and our shoemakers are preparing to legislate." This was the kindly and charitable way in which he intimated that some of his friends had been defeated at the elections.

The weakness of the Governor's following was again shown by the vote on the bill for fixing the times and places of holding the terms of the Supreme Court, which was carried by a vote of 17 to 4, but, notwithstanding this strong support, the Council threw it out without a division. The public convenience was nothing to the persons who formed the Council, in comparison with the

favor of the Governor. The disposition of the Council was still more clearly shown in connection with the appropriation bill. The Governor in his opening speech, had called the attention of the House to the need of a suitable building for the accommodation of the Legislature and the Courts of Justice, and also to the importance of making an annual allowance for the Provincial Academy. The same recommendations had been made at the previous session, and, in response to them, a grant had been made of one hundred pounds to purchase boards and timber for the proposed building, while an equal sum was given to the Academy for one year. At this session it was resolved that an annual sum not exceeding two hundred pounds be granted to the Academy, for the purpose of erecting proper buildings and towards the support of the same, so soon as the amount of the expected bounty from the parent state, should be ascertained "and a proper plan and place agreed upon." The Governor's friends endeavored to have the last eight words stricken out of the resolution, but they were defeated by a vote of 15 to 8. This was simply the old contest in regard to the seat of Government in a new form. As the resolution was merely put forward as an opinion of the committee, not to be operative until "a proper place and plan had been agreed upon," it was not included in the appropriation bill, and no further grant was made for the erection of a legislative building. But a resolution was passed in Committee and embodied in the bill, granting ten pounds to each parish in the province, for

the purpose of "aiding and assisting in the education of youth." This seemed a very reasonable provision at a time when the Governor was demanding money for the support of an Academy at Fredericton, but when the appropriation bill reached the Council, it was objected to because it contained this clause. A conference was demanded by the Council, and agreed to by the House of Assembly, the Council being represented by Chief Justice Ludlow and Mr. Justice Allen, and the House by Messrs. Robert Pagan and Peters and Capt. Clinch. The representatives of the Council stated their objections to the vote for schools to be "that the appropriating money for the education of children in the different parishes of this Province, was a new institution and necessarily required particular regulations, and that if appropriations of that nature were included in general money bills, the Council would not be left to decide freely on the merits of those regulations because although they disapproved of them, they could not reject them, without at the same time rejecting every other article in the general money bill." It was on these grounds that the Council declined to allow any public money to be voted for the education of those children in the province who were growing up in ignorance. These objections were reported to the House of Assembly, but that body declined to withdraw the obnoxious clause, so that when the bill came up in the Council for a second reading, it was unanimously rejected. The members present when this vote was taken, were the Chief Justice, Judge Allen and Messrs. Hazen,

Robinson, G. G. Ludlow, Winslow, Odell and Leonard. Thus the appropriation bill was thrown out by men who proved by their acts that they were opposed to the education of the masses. On the same day that this occurred, Mr. Hardy asked leave to introduce a bill "to defray the expenses incurred, and to be incurred in the public services therein mentioned." This was merely the rejected appropriation bill with the school vote left out. The Governor's friends rallied in force to the support of this bill, but leave to introduce it was refused by a vote of twelve to ten. Every member of the House who had been present during the session, except Mr. Chandler of Westmorland, voted on this occasion. Undeterred by his previous failure, Mr. Hardy on the following day, moved for leave to introduce a bill "to provide for public services," but leave was again refused, and when the House was prorogued, the province was without an appropriation act, and the persons who had earned their money by honest services to the public, could not obtain it. This was rathar hard on the officials whose salaries were none too large, but although the first, it was not the only time they were called upon to suffer from the same cause.

The last business done by the House at this session was the passing of an address to the Governor in reference to an attempt that was being made by the Legislature of Nova Scotia, to steal a portion of the territory of New Brunswick. The Assembly of the former province had addressed the Governor, asking his endeavors to effect an alteration in the boundary line between the provinces, and recommending that

the boundary be the Memramcook, and from the head of that river to Shediac Harbor. As this change in boundary would have given the best part of Westmorland County to Nova Scotia, it is not surprising that the proposal provoked much indignation in New Brunswick. The pretext on which it was founded was the alleged difficulty of locating the boundary from the head of the Misseguash River to Baie Verte, a difficulty that was wholly imaginary. Nova Scotia took nothing by this effort, and the boundary question was allowed to sleep for several years.

At the opening of the Legislature, Governor Carleton had expressed the hope and belief, that Great Britain would be able to avoid war with France, but before his speech was made, war had been declared. The great contest was begun which, with one brief truce, was to last for twenty-one years, and burden Great Britain with an enormous debt. On the 8th February, Secretary of State Dundas wrote to Governor Carleton, asking him to raise an infantry corps of six hundred men, which the Governor himself was to command without pay. This corps was to be for service in New Brunswick only and the principal object of raising it was to enable the regiments in New Brunswick to be removed elsewhere. Mr. Glenie was in London at this time and hearing of the proposal to raise a regiment in New Brunswick, he wrote to the English authorities opposing it on the ground of the sparseness of the population. He said very truly, that the efforts of all the male inhabitants were required to supply the population with food.

A corps of six hundred men would take one fifth of the population capable of bearing arms and at least one third of the more active and younger men. At that time there were not more than 15,000 people in the Province. There was, therefore, some force in Glenie's protest, but in times of great public excitement and when the warlike spirit of a people is roused, objectors like Glenie are apt to be accused of disloyalty and lack of patriotism.

Recruiting for the New Brunswick Regiment began in April and was continued during the remainder of the year. It was rather slow work, for the number of available men was small, and in October the total strength of the regiment was only 271 rank and file. In July, 1794, the regiment numbered 450 men of all ranks. This was about the highest number it ever reached, the number of effectives being generally about 300 men. The regiment was employed to garrison Fredericton, St. John and the other parts which had been held by the Sixth Regiment, which was sent to Halifax and from there to Barbadoes. The home authorities evidently thought that this island was much more liable to be attacked than New Brunswick. The Provincial regiment served upwards of nine years, doing duty all the time in this province and was not disbanded until August, 1802, after the peace of Amiens.

CHAPTER XV.

THE war which broke out between France and England, at this time, and which finally involved nearly every European nation, excited a good deal of alarm in New Brunswick. The Province was almost wholly without defences, and the regular troops in it were needed elsewhere. We have become so accustomed to live in security, that we can hardly realize there ever was a time when New Brunswick was thought to be in danger of an invasion, but, when the war broke out, not much more than thirty years had elapsed since the French flag was hauled down in Canada, and less than forty years before the whole of New Brunswick had been claimed as French territory. The war of the Revolution, which ended only ten years before, had been very injurious to the prestige of British arms, and there seemed to be no certainty that Great Britain would be able to protect her colonies in the contest that was now beginning. They might not be attacked by the armies and fleets of the enemy, but there was always danger from the predatory visits of privateers, such as had infested the coast during the revolutionary war. St. John was absolutely without defences, for Fort Howe was in the rear of the town, and therefore, of no value as a means of compelling an enemy's ship to keep at a distance.

Naturally, there was much alarm in that young commercial community, for the recollection of the raids made on the coast, in the first years of the American war, had not faded away. There was fortunately, plenty of courage and public spirit in St. John, and the people speedily enrolled themselves in companies for the defence of the place. New batteries were erected at the southern end of the city, and armed with 18 pounders so that it was thought no enemy's ship could enter the harbour. All this work was done by the people under the direction of the Governor, without cost to the Government. The volunteer companies were ready to stand to their arms at any time, and turned out on numerous occasions when there was an alarm that the enemy's ships were cruising in the Bay.

The regulars were all withdrawn from the up river posts when the British regiments left the province, but their places were supplied by small detachments of the King's New Brunswick Regiment, one under Lieutenant Jenkins at Presque Isle, and another under Lieutenant Chew at Grand Falls. The remainder of the regiment was stationed at Fredericton, St. John and Passamaquoddy. There were frequent reports of attacks that were to be made on the province, but they all proved to be groundless. Occasionally a suspicious looking vessel appeared in the Bay, but they all disappeared as quickly as they came. Indeed the St. John people were quite prepared for offensive warfare, for letters of marque were issued by the Governor to merchants of that city, and privateers were fitted out there to prey on the commerce of the enemy.

The session of 1794 began on the 4th of February with a good attendance of members. In his speech the Governor, after referring to the war with France, pointed out the necessity of placing the province in a condition of defence, and recommended the passing of a militia bill. The House lost no time in complying with the Governor's wishes, and a committee was at once appointed to prepare a bill. This measure, which was drafted by Mr. Chipman, passed both houses and became law. It provided that every male inhabitant of the Province, between the ages of sixteen and sixty, should be enrolled in some independent company or regiment of foot. Regiments were to be called out twice every year, and independent companies four times for the purpose of being trained. Every militia man called out was required to appear with a good musket, bayonet and belt, cartridge and flints. The only persons excepted from the operation of the law with respect to enrollment were members of the Council and Assembly, Justices of the Peace, Sheriffs, Coroners, all persons who have held any civil or military commission under His Majesty, the Surveyor-General, the Treasurer of the province, officers of His Majesty's Customs, revenue and naval officers, gentlemen of the learned professions and one ferryman to each ferry. Nevertheless all those exempted persons, except the ferrymen, were required to appear in arms four times a year with such regimental or independent company as they might select. Clergymen and physicians might appear on such occasions without arms. The Governor was authorized to call out the militia for service in case

of invasion or threatened attack on the province. This Act continued in force until 1802.

The appropriation bill of 1793, having been thrown out by the Council, it became necessary at this session to pass an act providing for the services of both years. The clause, which provided a grant of money for each parish in aid of education, which had been objected to by the Council, was omitted, and the grant for the Fredericton Academy was also left out, so that both the Council and the House might claim a victory. An appropriation of £160 was made to defray the expenses of the adjutants of militia. The session was marked by its harmony; the only division, which indicated the existence of party spirit being that with regard to the appointment of an agent for the Province in London. Brook Watson, who had been agent for several years, had removed from London, so that it became necessary to appoint another agent in his place. The person selected was William Knox, the father of Thomas Knox, who had been Deputy Muster Master of the Loyalists and disbanded troops on the St. John in 1784. Many of the members desired that Mr. Knox should be the Agent of the House of Assembly merely, and that the Council should have no share in his appointment. A motion to that effect was defeated by a vote of 12 to 10. At a later period, when the House and the Council were at a dead lock, Mr. Knox found his position one of much difficulty and sharp letters passed between him and the Committee of Correspondence of the House.

In 1794, we have the first indications of the long drawn out boundary controversy between Great

Britain and the United States with regard to the north west angle of Nova Scotia. The Treaty of 1783, which fixed the boundary between the territories of the two nations drew the line "from the north west angle of Nova Scotia, viz., that angle which is formed by a line drawn from the sources of the St. Croix River to the Highlands; along the said Highlands which divide the waters that empty themselves into the River St. Lawrence from those that fall into the Atlantic ocean, to the north westernmost head of Connecticut River." It will be seen later that a dispute was in progress in regard to the identity of the St. Croix River, but in the meantime our American neighbors thought they might as well take possession of the territory north of the source of the St. Croix. Accordingly in the spring of 1794, a surveyor was employed by the government of Massachusetts to run the boundary line according to the Treaty. He decided that Skiff Lake near the present Canterbury Station was the source of the St. Croix and, running due north from that point, he came out on the St. John River just below the old Indian fort at Meductic. Here he planted a stake and announced that this was the boundary, informing the settlers who lived north of this, and west of the River St. John, that they were under the jurisdiction of the United States. Information of this Surveyor's operations, was conveyed to Governor Carleton by Lieut. Allan, who was stationed at Presque Isle, and the home authorities were at once apprised of the fact. In a despatch written a few months later, Governor Carleton informs the Secretary of State, that

surveyors from Massachusetts were engaged in marking the boundary, which they traced across the St. John, a little above the Madawaska, which avoided the lands settled, but interrupted communication between New Brunswick and Canada. Evidently these two parties of surveyors, although employed by the same Government, were working on very different theories, for if Skiff Lake was the source of the St. Croix, and a line north from that, touched the St. John at Meductic, it should have crossed the river at that point and not above the Madawaska. Evidently the Government of Massachusetts was going on the principle, that by making extreme claims, more might be obtained than by a moderate statement of their case. The logical result of their claims if successful would have been that New Brunswick would have been entirely cut off from Canada, which would have made the Confederation of 1867, impossible.

In the summer of 1794, New Brunswick was visited by Prince Edward, Duke of Kent, the father of Queen Victoria. This Prince, then in his twenty-seventh year, had embraced the profession of a soldier, and was extremely active and zealous in the discharge of his duties. He lived for several years in Halifax and was commander-in-chief of the forces in North America, but he never had any opportunity of distinguishing himself in any of the wars in which Great Britain was engaged. Probably the British people would not have tolerated the entrusting of a high military command in the field to any member of the Royal family after the total failure of the Duke of York.

But the Duke of Kent was a better man than any of his brothers, and might have served his country with credit if he had been given the opportunity. He arrived at St. John from Annapolis on the 16th June, in the Zebra, sloop of war, and was received by Governor Carleton, who conveyed him to Fredericton where he arrived on the 21st. The next day was Sunday, but as His Royal Highness was in a great hurry he held a levee, received addresses from the Council and the inhabitants of York, and inspected the New Brunswick Regiment. Early on Monday morning he embarked for St. John where he arrived the same day. On Tuesday he inspected the battery and ordinance stores at St. John, and held a levee at the house of Mr. Chipman, the Solicitor General, the same house in which his grandson, now King Edward VII, was accommodated when in St. John sixty-six years later. The Duke left St. John the same evening for Annapolis, in the same vessel that had brought him to New Brunswick.

The Legislative session of 1795, was a great contrast to its predecessor, and during it, the differences between the House and the Council assumed an acute form. Mr. Glenie who had been absent for two sessions, now took his place in the House, and began to make it unpleasant for those who were wedded to the old order of things. His great achievement at this session was the carrying of a bill through the House "declaratory of what acts of Parliament are binding in this province." Under the terms of this measure no acts of the British Parliament passed subsequent to 1750, were

to be held binding on this province unless it was so expressed in the Act. No laws passed prior to 1750, were to be binding in New Brunswick, without express words to that effect, except acts for the purpose of imposing taxes, for the maintenance of an established clergy or for the regulation of Commerce. It was further declared that no part of the canon law, nor any act of parliament regulating the jurisdiction of spiritual Courts, shall be held to extend to this province and that neither the act of uniformity, nor any penal statute respecting recusants and non-conformists, except so far as they respect supremacy and allegiance, shall be in force in New Brunswick. This bill was so far in advance of the times that it is surprising the House passed it, but the journals show that it was carried by a vote of 15 to 10. Every member of the House was in his place when this important vote was taken. The bill caused a decided sensation among the friends of the Governor. Capt. Lyman wrote to the authorities at Whitehall, denouncing the bill in strong terms and attacking Glenie and those who voted with him. He described it as a measure practically to declare independence of the Mother Country. Yet everything in that bill has been long since recognized as right and the constitution of every self-governing British Colony is based on the principles there set forth. The bill was rejected by the Council the moment it was introduced, those friends of high prerogative and penal laws refusing to allow it to be even read, but it nevertheless stands in the records of the province as a proof that in James Glenie, New Brunswick had, more than a

century ago, a reformer of a very advanced type whose enlightened views, although denounced at the time by a set of bigots, are now universally recognized as sound and necessary to the peace and well being of the country,

A few days after the session opened, a message was received by the House from the Governor, asking that provision be made for the payment of £74. 7s. 7d. for the defence of St. Andrews, and of £50 for the purchase of a lot upon which to erect a battery in St. John. The House declined to vote any appropriation for these objects, and in an address to the Governor expressed the opinion that these items were expenditures for the general defence, and therefore not liable to be paid by the province. This address seems to have been passed in the House without a division, but it deeply offended the Governor and his friends in the Council. When the appropriation bill was sent to the Council the latter requested a conference with the Assembly. This was agreed to by the House, and Messrs. Winslow and Leonard, on behalf of the Council stated the objections of that body to the appropriation bill as follows :

1. That it provides for services not recommended, which the Council conceive to be unparliamentary.

2. That some of the services specially recommended by His Excellency in this session, remain unprovided for, although these services are acknowledged to be for the general defence, and ought therefore to have been among the first objects of provision, while on the contrary, greater sums are appropriated for other objects.

3. That the appropriating of sums of money, as in this bill, to the several members for their attendance in General Assembly, does not accord with parliamentary usage.

The representatives of the Assembly traversed all three of these propositions, and treated the third one as insulting to that body. The conferences ended in nothing, and the appropriation bill was thrown out by the Council. There can be no doubt that the stand taken by the House of Assembly in this matter was perfectly correct. The proposition that the House could not vote for services not recommended by the Governor, was ridiculous, in view of the fact that the Governor had no advisors who were responsible to the people. The statement that New Brunswick was bound to pay for the erection of forts at St. John and St. Andrews was incorrect, because the British government at Halifax and everywhere else had undertaken that work. The objection to the payment of members was equally invalid, because the Council in 1788, 1789, 1791, 1792 and 1794, had passed appropriation bills providing for the payment of members. The house having yielded the previous year in regard to the grant for education in the parishes, the Council hoped to force them to surrender the initiation of money grants, and make the Governor dictator as to what appropriations they should vote for the public services.

Another controversy arose between the Assembly and the Council during the session, in regard to the bill for fixing the terms of the Supreme Court. This was an annual offering, the vote on which may

be taken as a fair test of the strength of the Governor's personal following in the House. It did not ask much, only that for the convenience of suitors, one of the four terms of the Supreme Court should be held in St. John. On this occasion the bill was carried in the House by a vote of 19 to 5, which was a sufficiently strong indication of the current of public opinion on this question. But public opinion had no weight with the Council of New Brunswick, so that the very instant this bill was presented to the Council, it was thrown out. Three days after this rejection of their bill, the House resolved that a message be sent to the Council "to put them in mind of the bill for fixing the times and places of holding the sittings of the Supreme Court which tends so much to promote the happiness and convenience of His Majesty's subjects in this Province." The answer to this was a message from the Council stating that they did not concur in passing this bill. The House then passed a new bill which was similar in its terms to the first one for "Altering the sittings of the Supreme Court." It was sent up to the Council with a request for a conference. This conference was agreed to, but it came to nothing apparently, the only reason the Council granted it being that they desired to lecture the Assembly on constitutional points. They refused to go into their reasons for rejecting the bill or to discuss the question of public convenience involved in it. This might have been wise from their own point of view, but it was rather hard on the people for whom they were supposed to legislate.

The war interfered considerably with the trade of the Province and representations had been made to the Home Government by the province agent, in regard to its defenceless condition. The British authorities promised to give protection to St. John and the other Bay of Fundy ports by means of the fleet, but this protection did not prove adequate, for during 1795, several vessels were captured by a privateer cruising in Passamaquoddy Bay. To put a stop to the depredations of this vessel the Governor fitted up the armed brig Union and employed her for the defence of the coast. This was a more effective measure than the use of a regular man of war which could not follow small privateers to their numerous hiding places among the islands, the tides being too swift and the navigation too intricate for any but those to the manner born. These small privateers, although with French Commissions, were manned by the sons and grandsons of the same men who robbed and harried the settlements on the Bay of Fundy during the revolutionary war. When Americans complain of the Alabama being built and fitted out in England, they forget that they set the example, by fitting out privateers against British commerce in the closing years of the eighteenth century.

In the summer of 1795, Governor Carleton received a despatch from the Secretary of State informing him that the act of the Legislature for regulating the election of representatives to the General Assembly had been ratified by the King in Council. The Governor was well pleased to be in

a position to dissolve the Assembly which had given him so much trouble and this was done at once. The elections took place in August and were vigorously contested, and the result was not favorable to the friends of the Governor. Only fourteen members of the former house were returned, but among those who failed of election were Elias Hardy and Ward Chipman. Northumberland which had returned the latter in the previous election was now represented by two residents of that County, one of whom, James Fraser, a prominent business man, continued to represent it for a quarter of a century. In Sunbury a new man appeared as the colleague of Mr. Glenie, Samuel Denny Street, a man of force and ability and the founder of a family that has taken a prominent position in this Province. The Attorney General, Jonathan Bliss, who had been defeated at the previous election, was again returned for St. John, but he had now become a friend of the people and the Governor could not always count on his support. The new House was, if possible, less tractable than the old one had been. There was no disposition among its members to embarass the Governor, but there was a strong determination among the majority of the House, to resist the encroachments of the Council and uphold the rights of the people.

The House met on the 9th February, 1796, only one of the twenty-six members being absent. In his opening speech the Governor again referred to expenses that had been incurred for the defence of the Province and asked for an appropriation for that

purpose. In its reply to the address, the House evaded any reference to this recommendation and it soon became evident that there was no disposition to carry it out. A bill to provide for the payment of the services of the previous year was passed by the Assembly and sent up to the Council, but it was rejected by the latter. This, however, was not done without a division and three members of the Council, Mr. G. G. Ludlow, Mr. Daniel Bliss, and Judge Upham voted for the bill. The appropriation bill thus rejected provided for the payment of members but not of the bills for defence urged by the Governor. This vote was taken on the 2nd March, and on the following day, a bill was introduced in the Assembly for raising a revenue and appropriating the same together with the monies in the Treasury. This bill reached the Council on the 4th March, and on the following day the Council requested a conference upon it. The conference was agreed to by the Assembly and the objections of the Council to the bill were presented. They were seven in number but the principal ones were that different objects and services were mixed up in the bill and that it provided for the wages of the members of the House of Asssembly in an unconstitutional manner, taking out of the public treasury those wages which acts of parliament have directed to be levied on their respective constituents. The representatives of the Assembly answered these objections and pointed out the inconsistency of the position taken by the Council with regard to the payment of members after it had, in former years,

passed appropriation bills providing for such payment. Several conferences were held and the differences between the two Houses argued at great length, but no progress was made towards reaching an agreement. The real objection of the Council to the bill was shown by a resolution moved by Judge Allen, when the result of the Conference was reported to the Council, that it be an indispensable condition to the passing of the bill that the item relating to the pay of members be taken out. Strange to say this was not carried unanimously, but only by a vote of five to four. Four members of the Council seem to have come to the conclusion that it was rather a serious matter to reject the revenue bill, and leave the province without any money to pay for its public services. The members of the Council who thus honorably distinguished themselves, were the Chief Justice, Judge Upham and Messrs. Bliss and Robinson, while the men who voted on the other side were Judges Allen and Saunders and Messrs. Odell, Winslow and Leonard. As the House refused to be dictated to by the Council, in accordance with this resolution, the revenue bill was rejected by the same vote as that by which the resolution had been carried. Thus the province in 1796, was left without either a revenue or an appropriation bill. Governor Carleton in reporting this fact to the Secretary of State, dwelt on the hardship that this imposed on the officials whose salaries were then two years in arrears. Yet, if his feelings of sympathy had been as strong as he pretended they were, it lay within his power to force the Council to

pass the revenue and appropriation bills, for the rejection of these bills was with his consent if not by his orders.

In the same communication to the Secretary of State, the Governor referred to the efforts of the Assembly to have one of the four terms of the Supreme Court held at St. John. He took great credit to himself for having fixed the capital at Fredericton, and claimed that it had had a good effect in promoting settlement, a statement for which there was no justification whatever. How could settlement have been promoted by fixing the capital at Fredericton when there was not a mile of road north of Fredericton for the use of the settler? He informed the Secretary of State that a bill had been brought forward by the Assembly with regard to the sittings of the Supreme Court, although no real grievance was shown by holding all the terms at Fredericton. Yet the Governor knew that all the Judges of the Supreme Court resided at Fredericton, so that no proceeding of any description could be carried on before a Judge without going to Fredericton, which at certain seasons of the year was almost inaccessible. Even in the summer when the river, then the only highway to Fredericton, was open, it might take a week for a sloop to sail from St. John to the Capital. The House of Assembly had begged the Governor to use his influence to induce one of the four judges of the Supreme Court to reside at St. John, and had offered to pay any additional expense that the removal might cause. To all this the Governor had given a cold refusal, stating that the

want of resident judges in many large cities and towns in Great Britain had never been the subject of complaint. He ignored the fact that there were roads and means of conveyance between London and these cities and towns, but neither roads nor conveyances to Fredericton, and also the fact that St. John was the only commercial community of any size in the Province, so that to make the Governor's analogy good, the capital of Great Britain would have to be removed to Durham or York. At the present time there are six Judges of the Supreme Court, of whom only one lives in Fredericton, while three reside in St. John, one in Sussex and one in Dorchester. To have all six judges hived in Fredericton would now be regarded as an outrage, although that city can now be reached from St. John in two hours by rail. And the government by which our judicial appointments are now made, has on more than one occasion made stipulations with persons about to be appointed judges, as to where they were to reside.

The House of Assembly, unable to move the Council or obtain any satisfaction from the Governor, resolved to appeal to the Home authorities through the Province agent, and the following paragraph which embodies the grievances complained of, was inserted in the letter to the agent:

"In all endeavors to obtain a due and equal administration of justice we have studiously avoided every course of dispute with the Council, and it is with infinite regret that we feel ourselves under the necessity of observing to you, that in His Majesty's

Council in this province the legislative and judicial powers are more united than they have usually been in other colonies; that, exclusive of several justices of the Courts of Common pleas who have seats there, the Judges of the Supreme Court constitute one third of the Council when full, and frequently form a majority of that board when sitting in their legislative capacity; and that after the repeated attempts which have been unsuccessfully made, by successive Houses of Assembly, to have a bill passed in the Council for regulating the times and places of holding the terms and sittings of the Supreme Court, we despair of seeing justice duly and equally administered in this province without the aid and interposition of our most gracious Sovereign in this behalf."

A vote was taken in the House on this paragraph, and it was adopted by seventeen to five, the only persons who voted against it being three of the representatives of York, Murray, Ellegood and McLean, Colonel Fanning of Kings and Mr. Yeomans of Queens. Attorney-General Bliss voted for the paragraph, as did also Captain Agnew of York, and Messrs. Glenie and Street of Sunbury. Among those who voted for the paragraph were several persons who usually were with the Governor in their views, but who on this occasion were impelled by a strong public opinion to oppose him.



CHAPTER XVI.

THE Legislative session of 1797 opened on the 17th January, and the Governor in his speech referred to the difficulties which existed between the two houses. He suggested that a permanent provision should be made for the salaries of the public officers, or at least that the grants should anticipate the year for which they were provided so "that persons who give up their time and labor to the public service, and who by their appointments are made responsible for their conduct in office, may not again be exposed to such delay, as, in a great measure, amounts to a denial of justice, in the withholding of their reward on account of any accidental differences of opinion that may arise between the different branches of the Legislature." The Assembly in reply to this speech stated that it did not contemplate the establishment of permanent salaries, and it expressed its regret that the Governor should have characterized its conduct as a denial of justice. This was a bad beginning, for it led the House to believe that the sympathies of the Governor were with the Council in the contest between the two Houses. The ill-feeling was further increased when Governor Carleton in replying to the address of the House of Assembly undertook to lecture that body, telling them that their declining to attend to his recom-

mendations, "gives me the greater concern as you herein deviate from the line of conduct at all times pursued by the British House of Commons, by which you have so often professed a laudable intention to be solely guided." This was more than the House was disposed to stand, and two strongly worded resolutions were passed affirming the position taken by the House and justifying it. These resolutions were carried by a vote of eighteen to four, the Attorney-General voting with the majority. Mr. Glenie endeavored to have a resolution of censure passed on the Governor, and his speech to the House declared to be a breach of privilege, but this was defeated by seventeen to five. The only members who supported Mr. Glenie in this vote, were Captain Agnew of York, and Messrs. Younghusband, Mowatt and Campbell. That such a resolution should be seriously put forward and receive any support, is the best proof of the bad feeling that existed between the Governor and the House of Assembly. Many moderate men who voted against Mr. Glenie's resolution did so, rather out of respect to the office he held, than from any desire to support Governor Carleton.

The House lost no time in proceeding with a measure for the payment of the public services of 1795 and 1796. It passed the House without a division but when it reached the Council that body rejected it, after keeping its fate in doubt for some days. Every member of the Council was present when the vote was taken, and only two, Judge Upham and Mr. Bliss, voted for the bill. The Chief Justice and Mr. Robinson who had shown

some independence at the previous session, had now gone over to the enemy. Judge Upham and Mr. Bliss placed the reasons for their support of the bill in writing, and have thus left a record for themselves for good sense and moderation which is highly honorable to them.

The House then proceeded with a bill for raising a revenue and appropriating the same. The appropriations in this bill were for the services of the years 1796 and 1797. The Governor's friends in the House endeavored to have this measure modified by striking out the appropriations for payment of members, but they were defeated by a vote of 17 to 6. They then sought to have all the appropriation clauses of the bill struck out, but this was defeated by a vote of 20 to 3. The bill was finally passed by a vote of 16 to 7. The fate of this measure in the Council was not long in doubt. It was thrown out by the same vote as the former bill, leaving the province without any revenue act or any appropriations for another year. When this result was reported to the House, the Attorney General moved that a committee be appointed to bring in a bill for raising a revenue and appropriating the monies arising therefrom, but this was defeated by a vote of 17 to 5. The House was not disposed to allow its appropriations to be revised in conformity with the wishes of the Council. The last phase of this conflict during the session of 1797, was the passing of an address to the King on the present state of the province, setting forth the evils which had arisen in consequence of the conduct of the Council. This was passed by a vote

of 17 to 3, the only members who voted against it being Col. Fanning and Messrs. Peters and Yeomans. Such an address was not likely to receive much attention from the home authorities, for they were always accustomed to listen to the representations of the Governor, and Governor Carleton was actively opposed to the Assembly. His correspondence, now brought to light, shows that in forwarding this address, he took care to accompany it with such observations of his own as were calculated to prevent it meeting with a favorable reception. It is not likely that there would have been any objections made to the bills passed by the House and rejected by the Council but for his initiative, except perhaps in respect to the bill for holding some of the terms of the Supreme Court in St. John. The judges who all lived in Fredericton were naturally averse to going to St. John to dispense justice as the journey was, at any time, a difficult one to undertake and particularly so in winter. But this was a natural consequence of the capital of the province being placed in a small town remote from the centre of population. The address of the Assembly produced no effect on the Secretary of State, who was disposed to regard its members as a rebellious body who needed to be taught their duty.

The session of 1798 was a brief one and the only result of it was the passing of two acts, one for the continuing of laws that were near expiring, and the other in amendment of an act for the regulation of seamen. The House of Assembly passed bills for the purpose of raising a revenue and to appropriate

money for the public services, but they were rejected by the Council without even being read. One of these bills simply provided for the expenditure of the year 1795, while the other was a revenue and appropriation bill combined, but they both met the same fate. All the other bills sent up by the House were rejected by the Council although some of them were wholly unobjectionable even from the point of view of the Council itself. Political spite had a great deal more to do with this conduct than patriotism or any exalted principle. We may see in these episodes the causes which made the Council so unpopular as a Legislative Body, and which led to its final extinction at a time when its character and usefulness had greatly improved.

Governor Carleton in transmitting the proceedings of the session to the Secretary of State, seems to have thought it necessary to make some explanations in regard to the conduct of the Council, with reference to the terms of the Supreme Court. He stated that no complaint had been received from any suitor that the holding of all the courts at Fredericton amounted to a denial of justice. He doubted whether suits could be made less expensive with real benefit to the community, but no such effect would result from holding half the terms at St. John. Such reasoning was worthy of this obstinate but dull-witted governor. If the rendering of suits less expensive and the making of justice more accessible were not objects that deserved to be encouraged, why not go a step farther and have no courts at all.

In his correspondence at this time with the Secretary of State, Governor Carleton brought up another matter which was destined to create a great commotion in the Province at a future day. The grants of land given to the first settlers of the Province, provided for the payment of a certain annual sum to the King in the shape of quit rents. It is clear that when these grants were made, the grantees had no idea that the provision for the payment of quit rents would ever be enforced, looking upon it merely as a nominal acknowledgement of the sovereignty of the Crown. Carleton now suggested that the quit rents be collected, basing his advice on the ground that if much longer left undemanded, the right of collection might become a subject for public discussion. The Secretary of State replied that the main obstacle to the payment of the quit rents was the failure to collect them when due, for in the grants given to the Loyalists they were exempted for ten years from 1783. He advised that this exemption be extended to all classes of grantees and that the collection of quit rents begin forthwith.

A great wave of patriotism seems to have swept over the Province during the summer of 1798, and subscriptions were started in various localities for the purpose of carrying on the "just and necessary" war against His Majesty's enemies. These subscriptions were pledges for the payment of the amounts subscribed annually until the end of the war. A very large sum was obtained in this way, considering the means of the people. The officials who had large salaries gave freely, the Governor

putting down his name for five hundred guineas, which was just one third of his salary apart from the fees of office. Chief Justice Ludlow and the Rector of Fredericton, Rev. George Pidgeon, each subscribed fifty guineas, and Secretary Odell and Surveyor General Sproule each thirty guineas. Such gifts were gratifying proofs of the patriotism of the people but it is singular that private persons should have been asked to contribute in this way. Altogether about £3,000 was subscribed throughout the Province, an amount which would be but a drop in the bucket in the prosecution of a great war, but which must have entailed a good deal of self denial on the part of those who gave it.

The session of 1799 brought the deadlock between the Council and Assembly to an end. The situation had become serious, for the Province had been without an appropriation act for four years and without a revenue act for three. The Treasury was empty, yet the debts of the province and the salaries of its officials had not been paid. It was a situation that reflected no credit on any person, but the chief blame must rest on the Council, who by throwing out all the appropriation and revenue bills for several years, placed the Province in the unhappy situation it had reached.

Soon after the opening of the session the Governor laid before the House a number of letters he had received from the Duke of Portland, the Secretary of State, in reference to the differences between the Council and the Assembly. These letters were four in number and extended over as many years. The Secretary took strong ground

against the payment of members although he belonged to a family who had absorbed more public money than almost any other in Great Britain, and he also censured the placing of items for extraordinary services, in money bills, but he summarily disposed of the objection of the Council that no items could be passed by the House except such as had been recommended by the Governor. The Duke wrote like a man who was wholly ignorant of the conditions existing in New Brunswick, and indeed how could it be otherwise when his only informant in regard to provincial affairs was the Governor, who took good care to present everything in the light which best agreed with his own interests. A careful perusal of the Duke's letters shows that his prejudices against the conduct of the House had become considerably modified from what they were at first. The Governor did not make public all of the letters but only extracts from them, and he was careful to suppress the latter portion of the Duke's letter of the 5th June, 1798, in which he said, that although he had objected to the payment of members of Assembly, yet if it be thought desirable, as a temporary measure, he was too anxious for the restoration of the harmony and good understanding between the different branches of the Legislature, to hesitate in recommending that they be acquired on such terms.

Governor Carleton did not inform the House that this paragraph was in the Duke's letter, but he no doubt made the members of the Council acquainted with the fact, and it must have been clear both to

him and to them that the Council would no longer receive the support of the Home authorities in its refusal to pass the revenue and appropriation bills. Therefore when the first appropriation bills sent up by the House made their appearance in the Council, that body resolved that it would pass them for the sake of harmony and to prevent public inconveniences. These bills were three in number, and provided for the payment of the services and debts of the year 1795. They were promptly passed, and also a revenue bill. An appropriation bill covering the services of the years, 1796, 1797, 1798 and 1799, was also agreed to by the Council. Finally, an act was passed imposing an additional duty of three pence a gallon on rum, for the purpose of providing a fund for the payment of the members of the General Assembly, at the rate of seven shillings and six pence for each day's attendance. As this duty would produce ten times as much revenue as was required for the payment of the members, the passing of this bill must be regarded as an ingenious means of creating a public opinion unfavorable to the Assembly, for the doubling of the duty on rum must have been looked upon as a very serious matter by the men of that day. In this respect it may have been regarded as a victory for the Council, but it was also a victory for the Assembly, because it created a precedent for the payment of members based on an act of the Legislature. Yet, notwithstanding this fact, at a later period, the same quarrel was renewed between the two houses, and, as before, the Governor of that day gave his support to the Council. The principle of the payment of members

is now so well established, not only in this province, but in every self governing colony of the empire, that it is surprising it ever should have been made a ground of controversy.

In his speech at the opening of the session, the Governor announced that by the declaration of the Commissioners appointed under the Treaty between Great Britain and the United States, the River Scoudac had been decided to be the St. Croix, and therefore the true boundary between New Brunswick and Maine. Thus was settled in a manner satisfactory to the province, a controversy that had lasted for many years and which had greatly retarded its settlement. Almost as soon as the Treaty of 1783 was made, there were disputes as to the boundary. The Treaty stated that the St. Croix river should be the boundary, but immediately a question rose as to what river was the St. Croix. The Americans claimed that the Magaguadavic was the river meant by the Treaty, while the British claimed that the Scoudac was the St. Croix. We have already seen that in 1784, Governor Hancock of Massachusetts wrote to Governor Parr, asking him to recall all British subjects from the territory west of the Magaguadavic which he claimed was a part of the State of Massachusetts. This letter was answered by Governor Carleton in June, 1785, New Brunswick having, in the meantime been separated from Nova Scotia. Carleton stated that not only was the Scoudac considered to be the St. Croix by Great Britain, but that a numerous body of Loyal refugees immediately after the peace, built the town of St. Andrews on the eastern bank of the river. He added

that the Scoudac was "the only river on that side of the province of such magnitude and extent, as could have led to the idea of proposing it as a limit between two large and spacious countries."

The matter rested here until the making of the Jay Treaty of 1794, under which it was provided that the decision of the question should be left to three commissioners, one to be selected by the United States, one by Great Britain and the third by the two commissioners. The British Commissioner was Thomas Barclay of Annapolis, the American Commissioner was David Howell, a lawyer of Rhode Island. The third commissioner was Egbert Benson of New York, a lawyer of high standing. The Americans thus had a decided advantage in the make up of the Commission, if the decision was to be influenced by national sentiment rather than by the evidence, but this fact has had the good effect of placing the decision of the commission beyond question, for it was against the American claim. The interests of the United States were upheld by their agent, James Sullivan, a Massachusetts lawyer who wrote a history of Maine, while the British agent was Ward Chipman, the Solicitor General of New Brunswick. Edward Winslow was the Secretary of the Commission. The first meeting of the Commission was held in August, 1796, and their final decision was given on the 25th October, 1798. The arguments put forward by the agents for the respective countries, were long and laborious, but the ultimate decision was not based on these ponderous terms filled with special pleading. No

doubt the agents did as well as was to be expected of men who were mere lawyers, and had no special knowledge of the history of the settlement of Acadia and New England, or of the boundary disputes that had arisen between France and England at that early period. The name St. Croix had been given to the river in 1604, by Champlain when he established a colony of Frenchmen on an island in the St. Croix. Champlain published in his book a plan of this island, showing not only its shape and size, but the locality of all the buildings upon it. The foundations of these buildings still remained in the year 1797, when they were dug up by Thomas Wright, a surveyor, and this evidence which could not be impeached, settled the matter in favor of the British claim. The American claim was utterly baseless, for the Magaguadavic in no respect answered the description of the St. Croix as given by Champlain. Yet it is fortunate that the British commissioner was a colonist and not an Englishman, or the result of the arbitration might have been different. How much was involved in the decision may be judged from the fact that if the American claim had been sustained, the boundary line would have crossed the St. John at a point east of the Pokiok and about one-third of the area of the province would have been given to the United States. One-half of Charlotte, one-third of York and practically the whole of Carleton, Victoria and Madawaska Counties would have been detached from this province and the St. John, instead of being our own river, would have belonged to a foreign country except about 120 miles of its

course. It is unnecessary to enlarge on the difference this would have made in the development of New Brunswick or in its present condition. With the boundary line carried within twenty-five miles of the head of the Bay of Chaleur, the provinces of British North America would have been dislocated and their union into a confederation such as the Dominion of Canada would have been difficult if not impossible.

The Duke of Kent was at this time Commander in Chief in British North America, and he had suggested to the Home government the advisability of placing all the provincial regiments on the footing of corps liable to serve throughout the provinces. All these provincial corps were fencible regiments for the provinces in which they were raised, the term fencible being applied to regiments not liable to serve outside of their own territory. Evidently it would be an advantage to have all the provincial regiments liable to serve in any part of British North America, but this, as was explained by the Secretary of State to Governor Carleton, could only be done by their voluntary action. The Governor in October, 1796, assembled the King's New Brunswick Regiment for the purpose of ascertaining if the officers and men were willing to extend their service to all British America, and they unanimously agreed to do this. This was an important point and added considerably to the defensive strength of the provinces. The New Brunswick Regiment was disbanded at the peace of Amiens, but when war was renewed, another New Brunswick Fencible Regiment was raised, and this corps became the 104th Regiment of the line and

served in defence of Canada during the war of 1812. In the same manner the Royal Newfoundland Regiment was sent to Canada and fought there all through the war, its services not being needed in the Island of its origin.

A difficulty arose at this time between Governor Carleton and the Home authorities, in consequence of an arrangement which had been made, without his knowledge, for paying the staff and contingent expenses of New Brunswick by warrant drawn on the acting paymaster at Halifax. This measure, which had been taken in the interest of economy for the purpose of saving the salary of a deputy paymaster in New Brunswick, deeply offended Carleton and he asked leave to retire from his Governorship. The Secretary of State took Carleton's resignation very coolly, saying that it did not occur to him that the change in the mode of paying the troops would be regarded by the Governor as a reason for leaving the service. He added that the appointment of a successor would be made as early as possible. It did not take the Governor long to repent of the haste with which he had acted, for in a subsequent letter to the Secretary of State, he acknowledged his error, asked that his letter be forgotten and expressed his desire to continue Lieutenant Governor of New Brunswick, if it was not too late. This episode undoubtedly weakened Governor Carleton's position with the English officials, and it showed him that his services could be dispensed with.

Ever since the establishment of the Province the question of opening a practicable communication

with Canada had been discussed, but owing to various causes, the principal of which was the uncertainty of the boundary line, nothing substantial had been accomplished. At this time the subject was again engaging attention partly as a result of the decision of the Commissioners with regard to the St. Croix, and partly in consequence of the Duke of Kent having directed his attention to this matter. If Prince Edward had remained Commander in Chief there is little doubt that this and other plans connected with the improvement of military communications between the provinces would have been carried out, but he made but a short stay in Nova Scotia, leaving early in August, 1800, for England from which he did not return.

CHAPER XVII.

IN 1799 the Legislature was prorogued on the 7th February, and it did not meet again until the 20th January, 1801, a period of almost two years. It was certainly an extreme stretch of authority on the part of the Governor, to leave the province without a meeting of the legislature for so long a period, but many strange things were done in those days under color of the royal prerogative. The revenue bill of 1799 had been made to cover two years, but the appropriation bills did not go beyond the year 1799, so that any payments made by the Governor for services performed in the year 1800 were without legislative authority. This, however, was not a matter that was likely to give the Governor much concern, for he evidently thought himself entitled to disburse money as he pleased. An examination of the accounts showed that he had actually expended five hundred pounds of the public revenue of the province on the legislative building at Fredericton, although the legislature had made no appropriation for that purpose. Yet the Governor was encouraged in his illegal practices, by the lack of spirit in the legislature to resent them. Many members of the Assembly who showed plenty of courage when opposing the Council, were cowed when it came to opposing the Governor. So when

Mr. Robert Pagan moved a resolution in the Assembly censuring the Governor, for his conduct in this matter, only four members supported him, Messrs. William Pagan, Glenie, Smith and Younghusband. Fourteen members supported the Governor, among them Captain Agnew and Mr. Street, who had usually taken a firm stand for the rights of the people. No doubt they were influenced by local feeling, for Captain Agnew represented York and Mr. Street Sunbury, and they were naturally anxious to see Fredericton firmly fixed in its position as capital of the province, which could hardly be the case while it was without legislative buildings.

The revenue of the province for the period of almost two years since the revenue bill had been passed, reached a total of £6,579, including £700 from the estate of the late Treasurer. The duties at St. John realized £5,386, the largest amount being realized from rum, of which 141,907 gallons were imported. This was a much more moderate rate of consumption than there had been in the first years of the new province, although it would be called excessive in these days. Of brandy, 4,632 gallons had been imported, and of wine, 21,394 gallons. The latter was only used by the wealthy, or those who had been wealthy in the old colonies, and who were unable to change their former habits. To this we may attribute the prevalence of gout among the official classes in New Brunswick in its early days, and this in many cases was the only legacy they were able to leave to their descendants. The consumption of tea for two years reached 46,000 lbs., and of sugar 250,000 lbs. The use of tea was increasing as the use of strong drinks declined.

At this session was introduced for the first time the practice of sending up to the Council, resolutions of appropriation passed in committee of supply before placing them in the appropriation bill. This enabled the Council to object to any particular item of expenditure without endangering the entire appropriation bill. Where one item was objected to, it was discussed in conference and an understanding was generally reached. This system was continued until the year 1857, although responsible government had been in operation for some years previous to that date. It certainly gave the Council a great deal of power over the expenditures, and perhaps this power was, in some cases, wisely exercised, but in others, the result was not advantageous to the best interests of the province.

At this meeting of the Legislature a motion was made in the House, which stands alone, and it is to be hoped will always stand, as a solitary instance of its kind. It was resolved that David Fanning, one of the members for Kings County, having been convicted of felony in the Supreme Court of this province, be expelled from the House. Fanning was convicted of rape and sentenced to death, but, as there seemed to be some doubt of the justice of his conviction, he was pardoned by the Governor, thus escaping the extreme penalty of the law. Fanning had been a steady supporter of the Governor in the House of Assembly, and this counted in his favor. It is to be feared that if Mr. Glenie had been convicted of a similar crime, the law would have been allowed to take its course.

An important change took place in the position of the colonies in 1801, by their transfer from the Home Department, to which they had been assigned after the abolition of the Board of Trade, to the War Department. As the Home Department included not only Great Britain and Ireland, but all the colonies and therefore must have been very much overworked, the transfer might have been advantageous to the colonies if the country had remained at peace. Unfortunately the peace which was then being negotiated, was of very short duration, and up to the year 1815, the War Department had so much to attend to in raising and equipping armies to fight Bonaparte, that it had but little time to give to the needs of the colonies. There was no necessary connexion between colonial affairs and the War office except in time of war, yet this singular arrangement continued until 1854, when the colonial department was created with Sir George Grey, as its first Secretary of State.

At this time the British Government communicated with the Governors of all the British Colonies in North America in regard to taking measures to encourage the cultivation of hemp for the use of the navy. Governor Carleton informed the Secretary of State that hemp would grow well in New Brunswick but thought that a bounty would have to be given to induce the farmers to engage in its cultivation. This was done in the Province of Lower Canada where the Legislature granted £1,200 for that purpose, but no grant for a bounty on hemp was made in New Brunswick, and the

industry did not prosper. The cultivation of hemp in the province had been suggested by Brook Watson as far back as 1785 and Major Studholme had engaged in it on his farm at Studville but not with much success. In 1788, Lord Dorchester, the Governor General, in a despatch to Governor Carleton, stated that the cultivation of hemp in the colonies was an object which the British Government had very much at heart, and asked his opinion as to what bounty would be necessary in order to promote that object. Nothing more seems to have been done at that time, and the unsuccessful experiments of Major Studholme, no doubt deterred others from engaging in the business. In July, 1803, Col. James Peters of Queens County, writing to Edward Winslow, said that after some trials in the cultivation of hemp there was not much doubt but that it would succeed well on the rich intervale lands, and also on many other tracts where the land was of good quality, but the want of laborers, skilled in the cultivation of it, and the very high price of labor deterred the farmers from turning their attention to that article. The lack of skilled labor seems to have been the chief difficulty and it was one that could not be readily overcome. In 1808, George Leonard and Ward Chipman, the committee of the Council appointed to correspond with E. G. Lutwyche, the Provincial Agent in London, wrote him that from experiments that had already been made, it had been ascertained beyond a doubt that the great proportion of the land in New Brunswick was peculiarly adapted to the growth of hemp, but the difficulty of producing it in any considerable

quantity fit for market arose from a want of sufficient knowledge of the mode of dressing it and sufficient capital for that purpose, no individual having the ability to engage in so expensive a speculation without public aid. The Committee suggested that if the British Government desired to avail itself of New Brunswick for a supply of hemp, some method must be devised to send out at the public expense, a number of settlers from the north of Germany acquainted with the best manner of raising, curing, and dressing hemp, and to furnish them with seed and proper implements for that purpose. If the experiment succeeded the example of these settlers would stimulate others to engage in hemp cultivation. This suggestion was not acted upon then or at a later period, and hemp has never been extensively cultivated in this Province.

The session of 1802 was the last of the third Legislature of New Brunswick. It had been elected in 1795, so that its term of seven years was about expiring. At the very beginning of the session a dispute arose with the Governor with regard to the appointment of the Clerk of the House. When the House met it was announced that Isaac Hedden, the clerk, was too ill to attend, and one William Anderson appeared with a warrant from the Governor authorizing him to act as Clerk in Mr. Hedden's place. The House declined to allow this warrant to be read and by a vote of 11 to 7, passed a resolution that it should nominate a person to act as Clerk. Mr. Samuel Denny Street received the nomination and took his place as Clerk of the

House. A few days later Mr. Hedden died and the House passed an address to the Governor asking him to appoint Mr. Street clerk under the great seal of the province. This address was presented on Saturday, and on the following Tuesday the Governor sent a message informing the House that he had appointed Dougal Campbell to the office of Clerk. This was a direct snub to the House and it was not taken in good part by that body. It went into Committee on the message and it was resolved, but only by the casting vote of the Chairman, that Mr. Campbell should not take his seat as Clerk. A day or two later Mr. Street was appointed Clerk by a vote of 11 to 9 and acted in that capacity during the remainder of the session. But the matter was not allowed to end in this way for the Council took up the Governor's quarrel with the House. When the resolutions of appropriation went up to the Council, the one providing payment for the Clerk of the House was objected to because it contained the words "Appointed by the House." These words were struck out by the House but the name of Samuel Denny Street was added as Clerk of the House. This also was objected to by the Council and then the House combined the revenue bill and the appropriation bill and persisted in retaining the name of Mr. Street as Clerk. The Council demanded that the name of Mr. Street be struck out of the bill. The House refused by a vote of ten to seven and the bill was returned to the Council in that form by a vote of elevon to six. The Council postponed its consideration for a day, and then passed a resolution which was in effect

a protest against the action of the House in placing appropriations in a revenue bill, and requesting a conference. In the meantime the majority of the House committed an extraordinary act of folly in refusing to attend its sittings, leaving it without a quorum. They naturally supposed that under such circumstances the Speaker would refuse to proceed to business, and on the first day when there were only ten members present, he left the chair on the ground that there was not a quorum. But the Governor's friends were not to be daunted by the fear of acting illegally. Pressure was brought on the Speaker, and on the following day he consented to go on with the business, although there were only eight members present including himself. Two members, Major Dickson and Mr. Street, protested against this proceeding, but Messrs. Siddall and Leonard, Col. Coffin and Capts. McLean and Agnew upheld the Speaker, and the business went on. The principal business done was to consent to the demand of the Council to strike out the name of Mr. Street from the revenue and appropriation bill. Mr. Street, acting as Clerk, refused to alter the bill whereupon the alteration was made by Capt. Agnew acting under the orders of the Speaker. The whole proceeding was stamped with illegality, for the number thirteen had always been held to be necessary to make a quorum, and the House had been adjourned on many occasions because that number was not present. The result of the work of this "rump" House was that the bill passed without Mr. Street's name being in it, and Mr. Campbell,

who had done no work whatever, received the money which Mr. Street had honestly earned.

In this case the House seems to have taken a false position throughout, for, while acknowledging the right of the Governor to appoint the Clerk, they refused to abide by his decision and proceeded to make an appointment of their own. Nevertheless the conduct of the Council was not to be defended, for they interfered unnecessarily in a quarrel which the Governor was quite competent to maintain without their help. And it was certainly a most ungracious thing for the Governor to refuse the request of the House to appoint Mr. Street, who had certainly as good claims to recognition as any officer who served the King during the war. This question of the right of appointment came up in 1870 in connexion with the Office of Clerk of the Legislative Council. The Government of that day undertook to dismiss Geo. Botsford, who was Clerk of the Council, and appointed George J. Bliss in his place. The Council resisted and denied the right of the Government to make the appointment, and at one time this difference between the Government and the Council, threatened to prevent any bills being passed or any public business being done. The matter was referred to the law officers of the Crown in England and their opinion was that the right of appointment as well as of dismissal, was in the Lieutenant Governor and that the stand taken by the Council was unwarranted. The Council of 1870, was not the same as the Council of 1802, either in constitution or in personnel, but in spirit

the two bodies were identical. In the one case the Council is found unnecessarily interfering in a dispute between the House and the Governor, and in the other denying the right of the Government to appoint to an office which had always been held in that way.

As a result of the contest between the Assembly and the Governor, there was a war of pamphlets, in which S. D. Street, Ward Chipman and Edward Winslow took an active part. Mr. Street, under the signature of Creon, undertook to defend the conduct of those who supported him, and condemned the action of the seven members who claimed to be a House of Assembly and altered the Appropriation bill. Mr. Winslow, under the signature, "Job Creon," answered this by abusing Street, and all his friends, in language that is sometimes too grossly indecent to be repeated. Street was described as "a little short-legged thing that looks like a creeping cock," and the venerable Major Dickson, an officer who had served his King with honor for half a century, was treated in the same fashion. Ward Chipman's pamphlet argued out the matter from a legal point of view, and sought to prove that seven members had a right to call themselves a quorum of the House and transact business. Its manner of treating the case, strongly resembles the partizan political writings of the present day, so that the reader can easily imagine how much honesty was imported into the discussion. Chipman attributed the worst possible motives to the majority of the House, although it was composed of men, who, in patriotism and public spirit, were certainly his superiors.

Among the acts passed at this session was one for the encouragement of parish schools. It appropriated the sum of £420 to be distributed among the parishes of the province, £10 to each parish for the purpose of assisting in the maintenance of a school. This was practically the same measure that had been rejected by the Council in 1793, when it appeared as an item in the appropriation bill. It was the first act passed in New Brunswick for the establishing of common schools, and, although very crude and imperfect, it marked a change in the feelings of the people towards education. The province had then been settled by English speaking people some forty years. Nineteen years had passed since the coming of the Loyalists, yet until 1802 no provision whatever was made for schools except the Academy at Fredericton which was only within reach of the favored few. The state of education was very low, and a new generation was growing up in ignorance for lack of teachers. This made it certain that the sons of the Loyalists would be inferior to their fathers in knowledge, if not in ability and force of character.

At this session a step of some importance was taken for the promotion of settlement in the Province. It was very evident that New Brunswick was not growing in population as rapidly as it ought to have done and that other countries, with no greater advantages, were outstripping it. The tide of immigration was not setting towards our shores but on the contrary many persons who had settled in New Brunswick in 1783 and 1784 were leaving it and going to Upper

Canada. Many causes contributed to this exodus, among which the unpopularity of the Governor and dislike of the manner in which provincial affairs were administered, must take a prominent place. It was felt that the common people had no chance while the province continued to be governed by a few favored families, who looked upon people outside their circle as if they had been dirt beneath their feet. Moreover the regulations imposed by the British Government restricting the granting of land to settlers and locking up large areas of forest land on the ground that they were needed for reserves for the supplying of masts for the Royal Navy, stood in the way of settlement. These restrictions had been the subject of an address by the House of Assembly to the Governor at the previous session; the latter being requested to make application to His Majesty's ministers to have them removed. But in 1802, no answer had been received to this request, for the Governor had forwarded the memorial of the House to the Secretary of State, without any recommendation that it should be complied with. Several years were to elapse before the difficulties complained of were even in part removed and a much longer period passed before matters were placed on a satisfactory footing. In the mean time at the session of 1802, a grant of £300 was passed for the encouragement of immigration, and eleven commissioners were appointed to mature a plan for bringing laborers, servants and settlers to the Province. The sum thus appropriated was very small but it was probably as much as the Province could afford at that time.

It was hoped that as the Treaty of Amiens had put an end to the war, many disbanded soldiers would be disposed to emigrate, and there was a strong desire felt to obtain Germans who had been in the British service. But these hopes and expectations were all disappointed by the renewal of the war, which brought on another ten years of conflict with the might of Bonaparte.



CHAPTER XVIII.

THE third Legislature of New Brunswick was dissolved in May, 1802, and the elections were held in June. The contest was a very bitter one and was by no means ended when the polls were closed. The issues involved were numerous but they might all be resolved into one, for it was really a struggle between the Governor's friends and his opponents. In one of his letters written at this time Winslow says "The spirit of party is pervading all orders. As soon as I recovered health enough to enter into society I found nothing but acrimony, bitterness and recrimination. I was almost rejoiced when the gout compelled me to retreat." The result of the election was considered favorable to the friends of the Governor. Mr. Glenie was re-elected for the County of Sunbury but Mr. Street was defeated and a supporter of the Governor sat in his place. St. John returned a solid phalanx of opponents of the Governor, but York, Kings and Queens were just as solid the other way. Charlotte sent three opponents of the Governor and one supporter, Hugh Mackay, who was so bitter that he declared that peace and tranquility would never be established in Charlotte until Robert Pagan and Ninian Lindsay, two of his colleagues, were dismissed from their positions as Justices of the

Peace. Westmorland returned three friends of the Governor and one whose attitude towards him can never be ascertained because he did not live to reach the House of Assembly. This was Hugh McMonagle, who while on his way to Fredericton was drowned in the Kennebeccasis River by the team breaking through the ice. Northumberland also returned two friends of the Governor. In St. John, Chipman was again defeated, but he appeared as a petitioner against Edward Sands, who was unseated by a vote of 14 to 9. Election petitions were then tried by the House, and they were usually decided on party lines without any reference to the merits of the case. Great interest was taken in the contest for York, where the regularity of the election was contested by two of the defeated candidates, Messrs. Peter Fraser and Peter McLeod. The vote in the House was a close one, 10 to 9, and it was decided by James Fraser, one of the members for Northumberland, supporting the sitting members. One of these was the Rev. Walter Price, a clergyman of the Church of England. He sat in the House during the whole term of the fourth Legislature. He was not, however, the first clergyman who was in the House, for the Rev. John Agnew represented Sunbury in the second Legislature. No one objected to the return of these gentlemen, but when clergymen of other denominations began to be elected to the House there was a change in its feeling. In 1818 a bill was passed in the House and became law excluding clergymen of all denominations from the House of Assembly. As the Secretary of the

province was a clergyman and also a member of the Council, and as the Bishop of Nova Scotia afterwards became a member of the Council by virtue of his office, the exclusion of clergymen from the House seemed to be rather narrow legislation. Yet only five members opposed its passage in the House while 17 voted for it, and in the Council it passed without a division, and had its third reading on the same day it was received from the House. The act did not become operative until it had received the assent of the King in Council. This was given in 1821, and at the next session of the Legislature, Mr. Joseph Crandal, a Baptist minister, and one of the representatives of the County of Westmorland had to give up his seat in the House. This disqualification clause still remains on the statute books of the Province, although the Dominion Parliament imposes no such restriction on the choice of voters.

Among the Legislative grants of the session of 1802, was one to defray the expenses of a survey of the principal roads of the province, for the purpose of ascertaining what it would cost to put them in a fit condition for travel. Dugald Campbell was selected to make this survey, and his report on the state of the roads lets a flood of light on the difficulties which had to be encountered by the people who lived in this Province one hundred years ago. At the conclusion of his report Mr. Campbell says that ten miles of road fit for any kind of wheel carriage, is nowhere to be found anywhere in the Province, with the exception of the left bank of the St. John in Sunbury County, where

nature had chiefly performed the task of road making. As the road from St. John to the Nova Scotia boundary was not fit to be travelled, Campbell concluded to begin his examination at its eastern end, and embarked at St. John in a sailing vessel for Westmorland. It took him eleven days to reach his destination and he says "The delay convinced me, if proof had been wanting, of the necessity of a land communication to that valuable district of this Province." It was sixteen years since this Westmorland Road had been surveyed and laid out, yet it was, after the lapse of all this time, incapable of being used by wheeled vehicles. There were no bridges over the large rivers and the few bridges that had been built over the smaller streams were in a state of decay. Between St. John and Hampton Ferry, although the road was the main thoroughfare of the province, leading both to Westmorland and to Fredericton, it was in a very bad condition, completely out of repair and apparently so little used that one enterprising settler had built a fence across it. From Hampton Ferry to Fredericton a road could hardly be said to exist, except through a portion of the County of Sunbury along the River. The road from St. John to St. Andrews, was in hardly a better condition and between Musquash and the settlements on the St. Croix, to use the language of Mr. Campbell, the road was "hardly discernible." On the west side of the river a road had been projected from St. John to Fredericton, but no substantial progress had been made towards constructing it. In summer all travel was by the river on boats and

sloops, and in winter the ice was used. Above Fredericton there were no roads at all. Such was the condition of the Province with reference to its internal communication at the beginning of the nineteenth century. By the close of the century New Brunswick had ten thousand miles of roads, its streams were spanned by four thousand bridges, some of them of magnificent proportions and very costly, and fifteen hundred miles of railway brought every part of the Province within rapid and easy communication with St. John and Fredericton. The journey from St. John to the Misseguash, which it took Campbell eleven days to accomplish, can now be made in four hours, while two hours suffices to carry the traveller from St. John to Fredericton. At the beginning of the nineteenth century any one who did it in two days either in winter or summer considered himself fortunate and it frequently took a week. Without such comparisons it is impossible to fully realize the difference in the conditions of life between those days and the present or to appreciate the advantages we now enjoy.

Yet although New Brunswick during the first twenty years after the landing of the Loyalists was still in a very bad condition with respect to its means of communication, it had made substantial progress in other directions. In the midst of the wilderness good farms were beginning to appear, and comfortable homes had been built. Although the growth of population had not been satisfactory; those that remained were generally men full of vigor and determined to better their condition.

The idle, the improvident, the dissipated and the discontented had nearly all left the Province, and their going had been no loss to it. On the other hand some had gone elsewhere who could ill be spared, men of enterprise and means. A considerable proportion of these had gone to Upper Canada, where they assisted to build up that flourishing province. With them, no fault can be found, but the same cannot be said of those half-pay officers who returned to the United States and continued to live there the remainder of their lives, while drawing their half-pay regularly from the British Treasury. These men instead of assisting to develop the remaining British Colonies of North America, were engaged in building up a hostile nation, and when they abandoned British territory they should also have given up their pensions.

No census of New Brunswick was taken until the year 1824, so that it is impossible to state with accuracy, what was the population of the province in the beginning of the nineteenth century. But Edward Winslow in 1803 collected some statistics of population from residents of the several parishes which afford a basis on which to form an estimate of the number of people living in the province. The total population in 1802 was about 25,000. Charlotte county had then 2,622 inhabitants; Queens 2,119 ; Sunbury, 1,500 ; Kings, 3,000 ; York, which included all the territory now embraced in York, Carleton, Victoria and Madawaska counties, 4,000 ; Westmorland, which included Albert, 3,500 ; and Northumberland 4,880. The last named county then covered all the territory now included in the

counties of Northumberland, Kent, Gloucester and Restigouche. The city of St. John had about 3,000 inhabitants, and the town of Fredericton about 800. The entire territory now embraced in Carleton and Victoria counties had less than 1,000 inhabitants. Yet Governor Carleton had made the claim that by placing the capital at Fredericton, he had greatly promoted the settlement of the upper part of the St. John River. St. Andrews was then a small village, the whole parish only containing 487 inhabitants. The parish of St. Stephen was more populous and had 683 residents. There was no town of any kind on the Miramichi river, or on any part of the North Shore, so that there was no market for anything the country people produced, When the great fire took place twenty-two years later there were four flourishing towns on the Miramichi.

In other respects the progress of the Province had been satisfactory. Ship building had been carried on at St. John from an early period. One or two small vessels had been built there before the coming of the Loyalists and after that date ship building became a regular industry of the place. Vessels were also built at various points on the St. John River and its tributaries. In 1786, Nehemiah Beckwith built a vessel at Maugerville which was bought by General Arnold and named the "Lord Sheffield." Ship building was also carried on in Kings County, on the Kennebeccasis and George Leonard, Jr., writing to Winslow in July, 1803, states that within the past five years about 7,200 tons of shipping had been built. A statement made up at the same time in regard to Charlotte

County, says that fifty-eight vessels had been built in that County since 1785, aggregating 11,660 tons. Most of these vessels were built at St. Andrews, but St. Stephen, Beaver Harbour, Campobello and Grand Manan also contributed to the total. A memorial from the merchants and inhabitants of St. John which was forwarded to Lord Hobart in 1804, states that during the first ten years after the settlement of the Province in 1783, the people of New Brunswick had built ninety-three square rigged vessels and seventy-one sloops and schooners most of which were employed in the trade with the British West Indies.

Agriculture was then, as it is at present, the principal industry and after it came lumbering and fishing. The farmers of that day grew wheat in considerable quantities, most of it being winter wheat. Kings County at that time besides supplying its population with flour, was able to sell from two hundred to three hundred barrels of flour annually. Other counties did nearly as well, but the province did not produce enough wheat for its own consumption. Lumber was beginning to assume a position of importance although its export was limited while the war was continued. In 1803, there were twenty-two mills in Charlotte County, cutting annually 7,700,000 feet of boards. These mills, as may be gathered from their output, were of small capacity in comparison with the mills of the present day. In Kings County there were four saw mills, and Leonard's report states that among its exports were ton timber, spars and sawed lumber. There are no statistics available of

the number of saw mills in other parts of the Province, but they were to be found in every county, and gave employment to a large number of people. The fisheries were also beginning to rise into importance. Charlotte County, in 1802, exported 9,900 quintals and 3,000 barrels of fish. St. John County also had an extensive fishery and fish were exported to the British West Indies in schooners and brigs which brought back rum and molasses as a return cargo. Some attention was also being paid to the plaster trade, which a few years later assumed great importance. The Island of Campobello became a kind of depot for this trade. In 1794, about 100 tons of gypsum were landed at Campobello from Nova Scotia, and this business continued to grow until in 1802 the shipments amounted to about 14,000 tons. This was brought in British vessels from Nova Scotia and eastern New Brunswick to Campobello, and there transferred to vessels belonging to the United States, by which it was carried to New York and Philadelphia. Thus was trade hampered by absurd restrictions, but the business continued to increase in spite of the navigation laws, and when they were repealed it assumed very large proportions. In the year 1819, 100,000 tons of gypsum were exported from this Province, a large part of it from the Hillsboro quarries, which ever since that time have been sending their products abroad. These figures included plaster from the quarries of Nova Scotia which was transhipped into American vessels.

The first session of the fourth legislature of New Brunswick opened on the 8th February, 1803. The

speech of the Lieutenant Governor was quite brief, its only notable features being a recommendation to the House to follow the parliamentary practice of making the necessary appropriations for the public service in anticipation of the periods for which they were assigned, and providing by permanent grants for the payment of salaries. Bearing in mind the troubles he had experienced from the conduct of the last legislature, he closed his speech by stating that, as the happiness and prosperity of the Colony depended essentially on the preservation of the constitution, it was an indispensable duty in all legislative transactions to have a steady eye to that most important object. There was very little heart in his speech; it was the address of a weary man. Governor Carleton had then made his arrangements to return to England that year, but he did not know that he was then addressing the legislature for the last time. If he had known this, his address might perhaps have been a little less stiff and formal although his nature was essentially cold.

After the re-election of Mr. Botsford to the office of Speaker, which was considered to be a matter of course, the first business was that relating to the clerkship of the House. Mr. Glenie moved that the House proceed to the choice of a clerk, but this was negatived by a vote of 15 to 8, and by the same vote the House resolved that the office of clerk was a patent office and the appointment thereof vested in the Crown. This division may be regarded as an index of the strength of the Governor's friends in the House. The minority

consisted of Mr. Glenie, William and Robert Pagan, Bradford Gilbert, Hugh Johnston and George Younghusband of St. John, and Ninian Lindsay and Joseph Porter of Charlotte. These gentlemen although in this instance wrong in point of law, formed a compact body of reformers whose numbers were more likely to increase than to diminish.

Another test of the strength of the friends of the Governor was furnished by the vote on the question of a provincial agent. Thomas Knox had been the agent of the Province in England, but in 1798 the House had dispensed with his services, because he refused to act on its behalf in the quarrel between the House and the Council. It was now resolved that it was expedient to appoint an agent in Great Britain, the vote on this resolution being 13 to 8. By the same vote William and Thomas Knox were appointed joint agents for the Province, in England. This agency cost the province one hundred pounds a year or more, and it cannot be said that any great benefit was derived from it. The amount of work that was done by the agent was quite inconsiderable, and was confined to writing two or three letters a year to the Legislature.

The legislation of the session was not important and does not demand any particular mention. But the session was rendered interesting by numerous election petitions from defeated candidates and their friends. The warmest contest was in the County of Sunbury, where Mr. Glenie had been elected and Mr. Street, his colleague, defeated.

Mr. Street petitioned against Mr. Miles who had been returned by the Sheriff, and the Rev. John Agnew, D.D., and others petitioned against Mr. Glenie. In both cases the person returned by the Sheriff retained his seat. Dr. Agnew's petition against Mr. Glenie stated that the latter in his address to the electors, on the hustings used the following words:—"Such gigantic strides of despotism have been made by the Governor and Council of this province against the rights and privileges of the people, that the like has not been known since the days of Henry VIII., the most despotic prince that ever ruled on the English throne." Mr. Street in the same petition was charged with saying in his hustings speech "It is owing to the exertions of your faithful representatives in the late Assembly in guarding your rights and privileges against the attacks of the Governor and Council of this province, that you are now able, as freeman and freeholders, to give in your votes at the election." The petition declared that it was in consequence of the use of such language, that the minds of the electors were so worked upon as to cause them to give Mr. Glenie a majority of their votes and to Mr. Street a sufficient number of votes, to induce him to petition against the return of Mr. Miles. The petition "impressed with the sincerest principles of loyalty to His Majesty, and attachment to the Government" prayed that James Glenie and Samuel Denny Street be declared incapable of sitting as members of the House. As Mr. Street was not then a member of the House this modest

petition must be taken to mean, that the gentlemen referred to were to be declared disqualified from being candidates, by reason of their speeches against the government. This was what George III. had induced the British House of Commons to do in the case of Wilkes, thirty years before, but the success of that precedent was not such as to give much encouragement to a New Brunswick House of Assembly to pursue a similar course. Mr. Glenie was not unseated, neither was he declared disqualified. But the session of 1803, was his last appearance in the House of Assembly. No session was held in 1804, and before the session of 1805 he returned to England where he died in the year 1817. Mr. Glenie may have had some unamiable qualities as his enemies asserted, but he is deserving of the kindly remembrance of the people of this province as its first reformer, who, standing almost alone, resisted a tyrannical governor and his subservient council who were encroaching on the people's rights.

Lieutenant Governor Carleton took his departure from the province in October, 1803, after a continuous residence in it of nineteen years. His family accompanied him, although he intended to return at the end of two years. This intention was never carried into effect. The reasons which caused him to remain in England have been variously stated. One of these, is the appointment of Sir James Craig as Governor General of Canada, but this appointment was not made until 1807, two years after the time Governor Carleton had set for his return. It appears from letters written by him

in July, 1804, that he was preparing to return to New Brunswick in the summer of 1805. Again he wrote in March, 1806, that at that time he intended to return to New Brunswick after the 1st June of that year. But he was then seventy years old, and when the time came he may have shrunk from the difficulties incident to the long journey to America. Evidently, no one either in New Brunswick or in England was anxious for his return. His influence with the Home authorities as a non-resident Governor was not considerable, and it is on record that Edward Winslow was appointed a judge against his protests. Governor Carleton died at Ramsgate in February, 1817, holding the office of Lieutenant Governor, and drawing half the salary of that high position to the last.

From the departure of Lieutenant-Governor Carleton until his death, the government was administered by eight different persons who received the title of President. The first of these was the Honorable Gabriel G. Ludlow, a brother of the Chief Justice, who was the senior member of the Council. He was a Loyalist, had fought through the war of the Revolution, and had been a Colonel of the Third De Lancy Battalion. He had been Mayor of St. John and was the first Judge of the Court of Vice-Admiralty. Colonel Ludlow was not much in favor with the officials at the Capital, because he persisted in residing in St. John. Ward Chipman, in a letter written to Edward Winslow in December, 1805, gives a graphic description of the administration at that time. "With regard to public affairs here, we are really a self-governed people, and get on just as

well without a governor as with one, and so I think we should, without their honors the judges. The President is more retired and secluded from the world than ever at Carleton; everything is done by a sort of necromatic action and reaction of a committee of Council, the head of which has an influence I think never again to be shaken, unless we have a young, active, vigorous and enterprising governor to bring forth the energies and capabilities of the country, an event most devoutly to be wished."

When Governor Carleton left New Brunswick the war between Great Britain and France which had been brought to a close by the peace of Amiens, had just been renewed and the parsimonious folly which caused the disbanding of the Provincial Fencible Regiments was being freely criticized. The New Brunswick Fencible Regiment, after an existence of nine years, was disbanded in the summer of 1802, but before two years had elapsed, the recruiting officers were again in the field looking for men to fill up the ranks of a New Brunswick Fencible Regiment. Recruits were sought for not only in New Brunswick but in the Province of Quebec and in the course of time, a regiment larger in numbers than the one that had been disbanded and equally efficient, was obtained. This corps at a later date, became the 104th Regiment of the line, and did good service on many a hard fought field in Upper Canada during the War of 1812.

President Ludlow's speech at the opening of the Legislature in 1805, was a modest document, and its principal subjects were the War, and the state

of the finances of the Province. He recommended the passing of a better militia law and the making of better provisions for the payment of the public creditors. Both these recommendations were attended to, the militia act then passed, being the fifth enacted by the Legislature in eighteen years. An act which was passed to provide for punctuality of payments at the Treasury, authorized the issue of Treasury notes to the amount of five thousand pounds. But the most important act of the session was one entitled "An act for encouraging and extending literature." This act, notwithstanding its curious title, was a practical measure for the establishing of a grammar school at St. John, an institution which in the course of years, became remarkably efficient and provided a means of education to many of the prominent men of the Province, until it was finally absorbed into the free school system. The act also provided that there should be established in each County except St. John, two schools, and in the County of St. John, one school for instructing the youth of both sexes in the English language, and in writing and arithmetic. These schools were to be under the control of the Justices in the General Sessions of the Peace. A curious feature of the act was, that those schools were only to be held in any one parish for a year, after which they were to be removed to the next parish, so that every parish might enjoy the benefit of them. The sum of £375 or £25 for each, was appropriated for the support of these schools. This act was a long step in advance of any former enactments with regard to

schools in the province, and was a recognition of the fact that the youth of the Country were entitled to the benefits of an education.

Another act of the session was one to prevent the importation or sale of goods by persons not His Majesty's subjects. The excuse for this kind of legislation was, that the revenue laws were being evaded by aliens who imported goods, but there was no reason shown why aliens were likely to be more successful as smugglers than His Majesty's loyal subjects. In fact the restrictions on commerce were so numerous that evasions of the law seemed to be almost a necessary part of business and were looked upon as much more venial than would be the case at the present day. The law against importations by aliens was limited to three years and at the end of that time it quietly disappeared from the statute book. It was so easily evaded that it was virtually a dead letter from the beginning.



CHAPTER XIX.

THERE was no legislative session held in 1806, the revenue and appropriation bills having been passed for two years. President Ludlow opened the Legislature for the second time on the 30th January, 1807. In his address he was able to congratulate the province on the Imperial legislation which had been passed for the benefit of the colonies, in the shape of bounties given to colonial exports, the exclusion of foreign salted provisions from the British West Indies, and the allowance of a direct trade to Gibraltar. He directed the attention of the legislature to the increasing consumption of rum, which threatened to enervate the present and rising generation, and suggested that some means might be found to check it. The immense consumption of rum was certainly a very serious evil, for it not only enervated, but it impoverished the people. The custom house returns gave but a faint idea of of the amount of rum consumed in the province, for smuggling was carried on to an enormous extent, and it was almost impossible to check it. George Leonard, who in his capacity as Superintendent of Trade and Fisheries, endeavored to put a stop to the illegal traffic, in many letters written by him in 1805, and the following years, complained that he was hampered at every turn by combinations to defeat

the law, even the principal custom house officials being interested in this traffic. Leonard had seized a sloop named the Falmouth for smuggling, and if we are to believe his statement, he found all the officials against him. In a letter to Edward Winslow he states that Colin Campbell, the surveyor and searcher at St. Andrews, was one of the agents for the American claim for the sloop Falmouth, and Campbell's son was the owner of the cargo seized. Wanton, the collector, and Parker the Comptroller, were evidences for the American claimants, and Leonard declared that these officials were afraid of the illegal transactions at Campobello being disclosed, as it would lay open their emoluments of office under Dunn, their deputy collector. These were serious charges, and, if true, would seem to indicate a very low degree of honesty among some of the public officials in New Brunswick in the early years of the nineteenth century.

While the facilities for smuggling on the western borders of New Brunswick have always been extensive, the condition of the boundary question at that time increased the opportunities for that illegal traffic. Moose Island, on which Eastport is now situated, as well as Dudley and other islands in the St. Croix River, were claimed both by Great Britain and the United States so that the whole of Passamaquoddy Bay became a sort of neutral ground in which neither nation had any exclusive rights. British vessels loaded with plaster from the quarries of Nova Scotia and New Brunswick, anchored in these neutral waters and transferred their cargoes to American vessels, receiving in

return American goods which of course paid no duty when they reached the ports for which they were destined. The Legislature made many attempts to put a stop to this trade but it continued to exist as long as the absurd restrictive laws which brought it into existance were in force.

An interesting matter, involving public as well as private rights, came up for discussion at the session of 1807. There had long been a dispute between the citizens of St. John and Messrs. Simonds, Hazen, and White, with regard to the right to take fish on that portion of the harbor and river which was in front of their property. These gentlemen had received a grant of a large tract of land at St. John which took in the whole of the territory now included in the city on the east side of the harbor except the portion south of the line of Union Street. Parrtown, the first town established by the Loyalists, only included the territory south of Union Street, but when the city of St. John received its charter the boundary was carried farther north so as to take in a portion of the grant to Simonds, Hazen, and White. The Charter of St. John gave the inhabitants of the east side the sole right of taking fish between high and low water mark on the east side of the bay, river, and harbor of St. John. Messrs. Simonds, Hazen, and White, had enjoyed the sole use of the fisheries at St. John prior to the coming of the Loyalists, and they still claimed the right to fish opposite their own land. This led to conflicts between their fishermen and the city fishermen and also to litigation. Governor Carleton favored the claims of Simonds, Hazen,











JUDGES OF NEW BRUNSWICK.

Hon. Charles Fisher
Hon. A. R. Wetmore
Hon. W. H. Tuck
Sir John C. Allen
Sir William J. Ritchie

and White, and in 1802, he granted them a license of occupation by which they were allowed to occupy the shores of their grants from high to low water mark. This led to more litigation, and the Supreme Court decided against the claims of the Portland grantees. In a subsequent action for taking possession of a weir erected on the flats in front of Mr. Hazen's grant, the Chief Justice directed the jury that the place was an arm of the sea and common to all, and that even if the fisheries had been granted expressly to Mr. Hazen the grant would have been of no value. This decision made all the friends and relations of the Portland grantees extremely hostile to the Chief Justice, who received much unmerited abuse for his correct interpretation of the law. The only thing now left to them was an appeal to the Legislature for a law that would overrule the Chief Justice's decision. Accordingly during the session of 1807, a bill was introduced "to ascertain the rights of fishing." It provided that all subjects of His Majesty owning lands bounded on any river, cove, creek, or lake, should be deemed to have the sole and exclusive right of taking fish on or in front of the shores thereof. This bill passed the House of Assembly by a vote of 12 to 9 and it also passed in the Council, apparently without a division, and was assented to by the President. The Common Council of St. John at once took action to obtain the disallowance of the Act, and sent Samuel Denny Street to England to represent the City. The act was disallowed and the rights of the citizens of St. John conserved.

President Ludlow was not destined to again meet the House of Assembly for he died on the 12th February, 1808, just about the time when the Legislature would have met in the ordinary course. He was succeeded by Edward Winslow who, a few months before had been made a judge of the Supreme Court in succession to Judge Allen. Few men have had their lives so completely exposed to the world as Edward Winslow's has been by the publication of the Winslow papers, which consist largely of private letters in which Winslow addresses his friends and opens his heart to them. Winslow was a man of considerable ability and of fine character, who had been educated under a bad political system. His feelings were warm and he loved and hated with equal intensity. Under more favorable conditions he might have been a great reformer and an advocate of the rights of the people, for it is hard to believe that a man so intelligent could have really admired the system of government which he helped to uphold. He should have sought a wider field than New Brunswick, for here his talents were wholly wasted and he was condemned to a life of poverty. He saw men who were in every respect his inferiors promoted to positions which made them wealthy, while he had to struggle on for years with but little more than his half-pay to support his numerous family. When he was appointed a judge his life was drawing to a close, for he was in his sixty-second year and he did not long enjoy his new position.

President Winslow assumed the administration of the government of the province on the 20th

February, 1808, and he held that position for about three months. During that brief period he was able to do some service to the province by cancelling some arrangements with respect to the militia which had been made by his predecessor. Colonel Ludlow had become apprehensive that a war with the United States was imminent and called out one thousand of the militia of the province, which were formed into two battalions under the command of Colonel Saunders and Lieutenant Colonel Wetmore. One detachment was stationed at Fredericton, another at St. John and a third at St. Andrews under Colonel Mackay. Winslow concluded that there was no danger of an invasion and that the interests of the province must suffer most seriously if a thousand able bodied men, one fourth of the working strength of New Brunswick, were kept from their farms and workshops. He accordingly disbanded them on the 24th April by an order in which their loyalty and zeal are warmly commended, and the efficiency they had acquired as soldiers while in barracks, duly recognized.

Major General Hunter succeeded to the position of President of the province in May, 1808. General Hunter was in command of the troops in Nova Scotia and the arrangements which made him President had been made prior to the death of Colonel Ludlow. As there was a probability of a war with the United States, it was thought by the home authorities that a military man should be at the head of affairs in each of the British North American provinces. This is why Lieutenant

Governor Wentworth of Nova Scotia was replaced by Sir George Prevost in 1808. The arrangement was perhaps a good one in time of war, but it had nothing to commend it when the country was at peace. The military men who were in command in New Brunswick and Nova Scotia knew nothing of the needs of the country or the feelings of the people and were as a rule utterly unfit to administer public affairs as civil governors. The people generally felt it to be a grievance that the civil presidents, residents of the province and identified with its interests, were replaced by military men and even Judge Winslow, with all his respect for home authority felt called upon to protest against it. As the position of president went to the senior military officers, on one occasion, in the absence of General Hunter, the administration of public affairs devolved upon the Lieutenant Colonel of the New Brunswick Fencible Regiment and there were no less than nine changes in the presidency of the province between the retirement of Mr. Winslow and the death of Governor Carleton. It was clearly impossible that public affairs should be well administered under such conditions.

The session of 1808 did not begin until the 8th of July, and it closed on the 30th of the same month. President Hunter, in his opening speech, had no recommendations to offer to the Legislature, except to tell them that His Majesty had given directions that the most active measures should be taken for strengthening the British possessions in North America. He also informed them that His Majesty relied on them to make every exertion consistent

with their internal resources, with a view to the general defence. The answer of the Legislature to this appeal, was the passing of another militia act more stringent in its provisions, which required every male, from the age of sixteen, to sixty, to be enrolled in the militia, and to turn out for the purpose of being drilled four times in the year. A return made in 1808, shows that the enrolled militia of the province then numbered 4,500 men, of whom, about 1,300, were between the ages of forty and sixty. This left the number between sixteen and forty, who might be classed as fit for service in a campaign about 3,200. This was rather a slender defence against any serious invasion, but fortunately the province was never invaded, or ever threatened, during the whole war. This was the last session of the fourth legislature, for there was no session in 1809, and before 1810 the term of the House had expired. This House, although it contained a few men who were endowed with public spirit had proved itself more subservient to the wishes of the family compact than any of its predecessors. Its record is not a pleasing one, and one can only say of it that it did less harm than it might have done.

The fourth legislature was dissolved in 1809, and the elections were held in October. They were well contested and the new House was of very different complexion from its predecessor. This was shown by the very first vote that was taken, affecting the administration, which was for an address to the President asking for a copy of that part of the Royal instructions which regulated the calling of General Assemblies, prior to the year 1791. This was

carried by a vote of ten to eight. A still more decisive proof of the strength of the opposition was furnished a few days later, on a motion to unseat General Coffin and his colleague, George Pitfield, who had been returned to represent Kings. The petitioner was Joseph Belding, who had been a candidate at the election, and who told a story of dishonest conduct on the part of the Sheriff, Walter Bates, which was quite equal to the achievement in a similar line of William Sanford Oliver in 1785. Under the election law as it then stood, the sheriff was required to keep the poll open until all the electors had an opportunity of voting, and then to remove it to some other part of the country, to give the electors there a chance to vote. Under this system an election generally lasted a fortnight, but Sheriff Bates closed the poll on the second day, when only thirty-four persons had voted and declared Coffin and Pitfield to be duly elected. About five hundred of the electors of Kings county, were thus disfranchised, yet eight members of the House, including Captain Agnew and Mr. Allen of York, declared by their votes that the conduct of the Sheriff was right. Coffin and Pitfield were unseated, and the voice of the General was heard no more in the House of Assembly. At the by-election Belding and George Leonard, jr., were returned, and General Coffin was consoled by being appointed a member of the Council.

Samuel Denny Street, who had been a strong reformer and who was most cordially hated by all the friends of the Governor, was elected for the County of Sunbury. But it was a period of change,

the old leaders of the Tory party were dying off, and a few years later Mr. Street had become such a favorite with Lieut. Governor Smyth, that he was appointed to the Council. As all Mr. Street's sons who were in public life became opponents of all reform, we may fairly infer that as he grew older he became less zealous in his liberal principles and more favorable to the family compact. Mr. Chipman, prior to the election of 1809, had become a member of the Council and a Judge of the Supreme Court, and the Attorney General Jonathan Bliss had been made Chief Justice, Chief Justice Ludlow having died in the autumn of 1808. These changes brought new men to the front and produced new combinations, so that the officials and the old families no longer presented the same solid front to the opponents of prerogative that they had shown when Governor Carleton was in the Province. All these conditions were favorable to political emancipation, and the growth of a strong mercantile interest in St. John and other centres of trade made it certain that the old institutions which stood in the way of the prosperity of the Province could not always stand. A significant proof of the more Liberal tendency of the time was supplied by the passage of an act at this session which enabled Roman Catholics to vote. Under the Act of 1791, the first measure which provided for the election of representatives, all electors were required to take the oaths prescribed by the 13th George I. which were of such a nature that persons of that faith could not take them and were thereby prevented from voting. A

simple oath of allegiance was substituted for the former oaths and the difficulty was cured. This act was reserved for the Royal approbation, and was confirmed in June, 1811.

A return which was laid before the Legislature from the Naval office in St. John shows the nature of the commerce of the country and its growth between 1804 and 1809. In spite of the war, which had been going on between France and Great Britain during the whole of this period, the trade of St. John continued to grow. The shipping that cleared from the port rose from 126 vessels of 17,204 tons in 1804, to 310 vessels of 55,158 tons in 1809, and there was a corresponding increase in the principal exports. St. John, in addition to its own trade arising from the products of the province, had become the depot for a considerable commerce originating in other countries, for among its exports in 1809 were 15,638 barrels of flour and large quantities of bread and naval stores. In lumber, St. John exported in 1809 of pine, 48,214 tons ; birch, 1,289 tons ; masts, 2,278 ; spars 10,232 ; pine boards, 5,572,000 feet ; lath wood, 1,786 cords ; shingles, 1,499,000. The exports of fish were : Salmon, 1,647 barrels, 2,876 boxes and 5,632 smoked salmon. Of herrings, 23,862 barrels and 7,878 half barrels were exported ; of dry fish, 4,167 quintals, 1,465 hogsheads and 207 boxes. There were also 951 barrels of shad and 290 of mackerel among the exports. These figures may look small compared with those of the present day, but they represent a considerable trade for about 30,000 people. The Country had reached a stage of

progress when the merchants had accumulated sufficient capital to do business to advantage and when there was nothing to check the natural development of the varied industries of the province.

At this time the revenue of the province, although still small, was steadily increasing under a scale of duties which at this day would be regarded as extremely low. During the four years from 1803 to 1806 inclusive the revenue averaged a little more than £2,000 a year. During the next three years, from 1807 to 1809 inclusive, it rose to an average of £4,500 a year. In 1810 and 1811 the average revenue was upwards of £5,000 a year. In 1812, the year of the beginning of the war with the United States, the revenue went up to £9,993. In 1813 it was £13,809 and the aggregate revenue for the two years 1814 and 1815 was £41,436. It was a growing time in New Brunswick in those years of conflict.



CHAPTER XX.

WHEN the Legislature met on the 5th February, 1812, war was imminent between Great Britain and the United States. Into the causes which led to this contest between two Christian nations intimately connected by the ties of blood and a common language, it is not necessary to enter here. Certainly the British Government of that day was far from being blameless in the matter, while the spirit displayed by the rulers of the United States was still worse, for they aimed at nothing less than the conquest of Canada, and all the other British provinces of North America. It was thought that Great Britain was so much engaged in Europe in maintaining a contest with the power of Napoleon she would be unable to afford adequate protection to her British North American Provinces, and this idea was in a measure correct, for at the beginning of the war these provinces were very ill-prepared for a contest. The British Government of that day was mainly composed of men who were more intent on suppressing freedom of speech than in defending the loyal colonies of the empire. No man with British blood in his veins, can now read without indignation of the manner in which men who desired to bring about a better state of things were persecuted and punished by fine, imprisonment and

the pillory, for criticising the conduct of those in power. Leigh Hunt was imprisoned for two years and fined £500 for an article in the Examiner criticising the Prince of Wales, every word of which was true. Cobbett was imprisoned for two years and fined £1000 for objecting in his paper to the flogging of British soldiers by German mercenaries. These are but samples of the odious persecutions that were carried on against men who dared to suggest that the laws might be improved. Percival, Liverpool, Castlereagh and Eldon controlled the policy of the government which, feeble in war, was only bold and efficient when some unfortunate printer or writer was to be consigned to the dungeon and the pillory. These men could not be induced to believe that there would be a war with the United States and the preparations for it were on such an inadequate scale, that the successful defence of Canada by the few soldiers and militia that could be placed in the field, must excite our wonder and admiration. Certainly the British Government of that day deserves no credit for the saving of Canada to the empire. That result was achieved by the bravery of the British soldiers and Canadian militia which fought in the field, and by the patriotism of the Canadian people.

The opening speech of President Hunter to the legislature voiced the general alarm that was felt at the critical position of public affairs. He began it by recommending to the most serious consideration of the members of both Houses the importance of making such arrangements as might be requisite for their defence against the hostilities with which

they were threatened. Yet, by making due preparations for resolute defence, they might contribute to prevent that hostility which otherwise their supineness might invite. The reply of the House of Assembly to this speech was in a similar strain of ardent patriotism and the Council was not behind in its professions of loyalty. At that time and for many years afterwards the Council and Assembly passed different addresses in answer to the speech, a practice that was continued until the establishment of responsible Government.

The principal defensive measure, in addition to the renewal of the militia act, passed at this session, was one authorizing the president, in the event of war being declared, to expend ten thousand pounds for defensive purposes, with the advice of the Council. This was not a large sum, but it was equal to about two years revenue of the Province, and therefore bore the same proportion to income as a grant of $1,600,000 at the present day. At this time the only military corps in New Brunswick was the 104th regiment, a regiment which had been mainly raised in the province, and which had been originally called the New Brunswick Fencibles. It is an extraordinary proof of the ignorance that existed in England with regard to the warlike intentions of the government of the United States, that the Duke of York, Commander in Chief of the British army, in February 1812, actually proposed that the 104th regiment should be sent to England. This, if it had been carried out, would have been a most extraordinary proceeding, for the 104th, like other Fencible Regiments, was intended for service in

North America exclusively, and the taking of it over as a regiment of the line would have changed its character in that respect, so long as the British colonies of North America were in danger. The 104th did not go to England, but to Upper Canada, where it did good service during the war.

Apart from the measures for the defence of the Province, the legislation of 1812 was not important. Probably the only act which will interest the people of the twentieth century, was that to encourage the erection of a passage boat to be worked by steam, for facilitating the communication between the city of St. John and Fredericton. This piece of legislation showed that the wheels of progress were beginning to move in New Brunswick. The first steamer began to run on the St. Lawrence between Montreal and Quebec on the 1st November, 1809, a small vessel with a speed of about six miles an hour, and accomodation for twenty passengers. We need hardly feel surprised that in this humble craft, the public generally failed to recognize the pioneer of a new era in the navigation of the waters of British America. The idea of navigating the River St. John by steamboats, appears to have occurred to two sets of individuals at the same time, for in 1812, there were two companies, asking for the exclusive privilege of running steamboats on the St. John River. The successful parties were John Ward, Robert Smith, George D. Berton, James C. L. Brenner, James Fraser and Lauchlan Donaldson, who obtained the exclusive right to navigate the river by steam for ten years, on giving a bond to place a steamboat upon it, capable of accommodat-

ing sixty passengers, within two years after the passing of the act. The war interfered with the arrangments of the steamboat men, and in 1813 they obtained an act extending the time of placing a steamboat on the river, to two years after the peace had been restored with the United States, and extending the term during which the owners should have the exclusive right to ten years after the completion of the boat. The first steamboat, the General Smyth, began to run on the St. John in the spring of 1816. In 1819 her owners obtained an act extending the time of their exclusive privilege until March 1829. By the time this act had expired steamboat navigation on the St. John had been so well established that no further exclusive privelege was required.

On the 6th of June, 1812, Major-General George Stracey Smyth was appointed to the command of His Majesty's forces in New Brunswick and on the 15th of the same month he took the oaths as President and assumed the administration of the Government. General Smyth afterwards became Lieut. Governor, so that he is an object of more interest than if he had merely been President for a short term. At the time of his first appointment as President he was forty-five years of age, but broken in health, and much older in constitution than in years. Miss Penelope Winslow, in one of her lively letters, describes him as "a stiff, pedantic old thing," and his wife as "young, handsome, gay and thoughtless." General Smyth proved himself most unfit to be a Civil Governor, for his whole life had been spent in the army, and he knew nothing outside the

routine of his military duties. But these defects in his character were not disclosed until he became Lieutenant Governor. As President he was immediately called upon to meet a state of war, for war was declared by the United States against Great Britain on the 19th June, just four days after General Smyth was sworn in as President.

The news of the declaration of war reached the United States collector at Eastport and the commander of the garrison at 11 o'clock on the night of the 25th June. The latter was instructed by the Washington authorities to put the town in as good a state of defense as possible, but to act only on the defensive. Next morning the inhabitants of Eastport held a public meeting, at which it was unanimously resolved to preserve as good an understanding as possible with the inhabitants of New Brunswick, and to discountenance all depredations on the property of the people of the Provinces. An account of the declaration of war and of these proceedings was on the same day forwarded by Mr. Robert Pagan of St. Andrews to President Smyth. This information was laid before the Council on the 29th June, and the President was advised to give orders to have one-third part of the militia duly prepared for being embodied on the shortest notice. On the following day an Order-in-Council was passed recommending the Officers of Customs to admit American unarmed vessels laden with provisions, into the port of St. John, and to allow the importers in return to take away British goods, except arms and military stores. This arrangement was made because

provisions were scarce in St. John when war was declared, and five hundred barrels of pork were required for the use of the troops. As St. John, only a year before, had been made a free port it was the means of making it while the war lasted an important depot of trade and giving it a commercial importance which it never afterwards lost. The wisdom of keeping peace on the Western border was duly recognized by Sir John Cope Sherbrook, the Lieutenant Governor of Nova Scotia, who issued a proclamation forbidding all His Majesty's subjects to molest the inhabitants of the United States living on the shores near Nova Scotia, or to interfere with their coasting or fishing vessels, so long as they abstained from molesting the inhabitants of Nova Scotia or New Brunswick. A copy of this proclamation was laid before the Council of New Brunswick and one in similar terms was issued by President Smyth. Thus peace was insured on the border, and the inhabitants on both sides of the line were able to pursue their accustomed avocations in peace, during the whole period of the war. This sensible arrangement was made easy by the fact that the people of New England were known to be opposed to the war.

The President and Council now took steps to place St. John in a proper state of defence, its fortifications having been much neglected. A communication was sent to the Mayor, particularly calling attention to the state of the old fort in Carleton and asking the co-operation of the Common Council in obtaining the services of as many artificers and laborers as the district could

furnish. The Common Council acted promptly and, on the very day this communication was received, resolved that they would lend every aid in their power towards the objects suggested and would take steps to agree with the proprietors of the lots on and around the ruins of Fort Frederick to compensate them for any damage they might sustain by the erection of the contemplated fortifications. They also resolved that the members of the board would personally attend to and assist in the work, and do all in their power to induce the inhabitants of the city to volunteer their services to assist in its completion. These patriotic resolutions were followed up by corresponding acts. The people turned out willingly, and worked on the fortifications and soon they were in a satisfactory condition. Guns were sent from Halifax with which to arm the forts about St. John, and the British government commenced the erection of a Martello Tower on Carleton Heights, which still remains as a monument of that warlike age.

Prsident Smyth and his Council thought that the government of New Brunswick should possess an armed vessel for the purpose of convoying vessels in the Bay of Fundy and defending the coast to the westward of St. John against the enemy's privateers, and a suitable craft was soon found in the Commodore Barry, an American privateer, which had been captured by two of His Majesty's warships and brought into St. John. She was at once renamed the Brunswicker, armed and equipped, and put in commission, and rendered good service during the autumn of 1812. She made one cruise

with His Majesty's brig Plumper, at the request of Lieutenant Bray, who commanded that unfortunate ship, for the purpose of intercepting American prizes off Mount Desert. The Plumper a few weeks later while on her way from Halifax to St. John, with $70,000 in specie, was wrecked near Dipper Harbor and forty four persons, including her commander, were drowned.

The coast to the westward of St. John swarmed with American privateers, indeed the gains of privateering would seem to have been one of the inducements which caused the Americans to go to war, and the question of issuing letters of marque from New Brunswick, speedily came up in the Council. On the 27th July, an application was made by George Raymond and others, owners of a sloop named the General Smyth, for letters of marque to cruise against the enemy, and they were granted, although no instructions on the subject had been received from England. But a similiar application made by Bradford Gilbert and others in January, 1813, was refused, and it does not appear that any other letters of marque were issued by the Province of New Brunswick during the war. The General Smyth was quite successful in making captures, and numerous prizes were also brought into St. John during the war by His Majesty's ships.

As soon as war was declared, Mr. Robert Pagan and other magistrates of Charlotte County, called a meeting of the Indians residing on the St. Croix River and secured their neutrality, a very necessary precaution which had the best results, for the

Indians remained quiet through the whole war. The President was authorized to purchase fifteen hundred suits of clothing for the use of the militia, and in December, 1812, orders were given for the embodying of five hundred of the militia. All these measures of precaution against a possible invasion doubtless appeared to be very necessary at the time, but they proved needless for the province was never attacked or even menaced, New Brunswick was invulnerable while His Majesty's ships cruised in the Bay of Fundy.

In the mean time a vigorous warfare was being waged in Upper and Lower Canada and more troops were urgently needed there. The New Brunswick Regiment, the 104th, in February, 1813, received orders to march to Canada and it set out without delay for its destination. It is one of the mysteries of British officialism that the departure of the 104th Regt. for the seat of war should have been so long delayed. Reinforcements were urgently needed in Canada during the whole summer and autumn of 1812, and the 104th which was 1,000 strong and keen for active service ought to have been on the move in July or August of that year. As it was it was sent forward at the most inclement season, through three hundred miles of wilderness, most of which had to be traversed on snowshoes, for there were no roads north of Fredericton, worthy of the name. The legislature was sitting when the 104th began its famous march to Canada, and a resolution was moved by Capt. Agnew, expressing the solicitude felt by the House of Assembly for a corps raised in the Province and

destined, it was hoped, to long continue its pride and ornament. It might have been supposed that such a resolution would have been passed unanimously by a standing vote, but strange to say it was only carried by a majority of one vote, there being nine for it and eight against it. Evidently the people of the present day take more pride in the 104th Regt. than did their fathers who lived in the Province ninety years ago. Certainly it could not have been any lack of patriotism that caused eight members of the House to vote against this resolution, for among them were John Ward and Hugh Johnston, members for St. John, who had always been distinguished for their patriotism and public spirit. Col. Alexander Halket, who commanded the regiment made a suitable response to this resolution and a day or two later it started on its arduous journey arriving in Quebec early in March, without losing a man.

The Legislature this year met on the 13th January and sat until the 3rd March, the prorogation being hastened by the serious illness of the President, whose life was at one time despaired of by his physicians. The first business of the House was the election of a speaker, Mr. Botsford, who had filled that position since 1786, having died during the recess. Mr. Botsford had presided at twenty-one sessions of the House, and must have had many acceptable qualities to retain the favor of the House for so long a period, but he showed great weakness or subserviency to the Governor in 1802, when he permitted a rump house of ten members to enact important legislation. A speaker ought to be

independent of all external influences, but that was evidently not the case with Mr. Botsford. Mr. John Robinson, one of the members for the City of St. John, was elected speaker without opposition. The speech of the President dealt exclusively with the war then going on with the United States, and recommended a revision of the Militia law. The legislation of the session was mainly confined to measures of defence. The militia law was amended so as to make it more efficient. An act was passed to provide for the accommodation and billeting of His Majesty's troops and the militia when on their march, and measures were enacted to increase the revenue. One of these imposed an additional duty of $2\frac{1}{2}$ per cent. on all goods, except fish and provisions, imported by any foreign, alien or non-resident. This act, which was passed with a suspending clause, was ratified in July of the same year and continued in operation until 1820. It was quite in keeping with the restrictive policy of that time, but it entirely failed to effect the object for which it was intended, the keeping of the business of the country in the hands of a few persons. A similar law placing the rate of duty at five per cent. on goods imported by aliens was passed in 1821, but repealed in 1823.

The Militia bill and the billeting bill led to differences between the House of Assembly and the Council on points which would not interest the modern reader, but the bills were finally passed and became law, as was also the appropriation bill which at one time threatened to produce a dead-lock between the two Houses. It was a time when both

houses had more serious matters to attend to, than technical objections to necessary legislation, for the war was still going on, and further defensive measures appeared to be necessary. The place of the 104th Regiment, had been taken by the second battalion of the Eighth Regiment, but as it was highly probable that their services would be required in Canada, it became necessary to raise another regiment of Fencibles in the province. Accordingly in February, 1813, the Honorable John Coffin, who had become a member of the Council and a Lieutenant-General, received a commission to raise a regiment of Fencible Infantry in New Brunswick. This enabled the president to disband the greater part of the 500 militia which had been embodied, and gave such of them as had become attached to a military life an opportunity of enlisting in the new Fencible Regiment. In February, 1814, this regiment had 300 men at headquarters, and 100 recruits in Canada. The 104th had so drained the country of its available men, that recruiting was naturally slow. Its ranks were never entirely filled, and it was disbanded soon after the close of the war.

The state of General Smyth's health rendered necessary his departure from the province in August 1813, and he was succeeded as President, by Major-General Sir Thomas Saumarez, who was in command of the troops in New Brunswick. Sir Thomas' term of office lasted just one year and he was a popular president. The legislature was called together on the 14th January, 1814, and the president's speech as before, dealt almost exclusively with topics

connected with the war, and recommended a review of the militia law for the purpose of making it more efficient. The House of Assembly and Council had a long contest over the proposed amendments to the militia law, the principal questions in dispute, being the number of days the militia should be called out for drill each year, and the amount of discretion that should be left in the hands of the president, with regard to the drilling of the militia. At the last moment the Council yielded, and an amended militia act was passed. In a country situated as New Brunswick was at that time with a sparse population the calling out of the whole of the militia for drill, for any long period, must have been a great hardship, for it brought all work to a standstill, and the time thus lost could never be recovered. For this reason an efficient militia act was certain to be unpopular, and members of the House of Assembly were not insensible of the odium they might incur, if they consented to what the president and the Council demanded.

During the session the 8th Regiment under Lt. Col. Robertson and two hundred seamen under Commander Collier, who had volunteered to serve on the Lakes, went overland to Quebec. The House of Assembly granted three hundred pounds for the purpose of hiring sleighs to assist them in their journey. The people of St. John and its vicinity had taken charge of the gallant tars on their arrival in that city and provided sleighs to forward them to Fredericton. The journey of both soldiers and sailors to Quebec was accomplished without much difficulty and these reinforcements

arrived at a very opportune time, when every man that could be spared was needed to go to the front in Canada.

One of the matters which engaged the attention of both houses and in which they cordially agreed was an address to the Prince Regent, in regard to the boundary between Maine and New Brunswick. In this address they asked that when negotiations for peace took place, His Royal Highness would insist on such a modification of the boundary, that communication between New Brunswick and Lower Canada, by the St. John river, might not be interrupted. If this representation had been attended to by the British Government all the subsequent boundary disputes, which nearly produced another war, would have been avoided. But the Prince Regent's advisors were not men who cared anything for boundary questions in North America. They were more concerned to repress free speech and a free press in the British Islands than in taking measures to extend and perpetuate the Empire, whose concerns had been entrusted to their unworthy hands.

During this year, three successful military and naval expeditions were carried out, which would have been a powerful lever in adjusting the boundary line, if properly used. The first of these was the capture of Eastport in July, by Lieut. Col. Pilkington and Capt. Sir Thomas Hardy with H.M.S. Ramilies and two transports carrying 600 men of the 102nd Regiment. The only fortification at Eastport was Fort Sullivan, which had a garrison of 80 men under Major Putnam, who very

wisely surrendered without firing a shot. The people of Eastport, who had showed a friendly spirit during the war, were thus spared any of the horrors of a contest. In August, Sir John Cope Sherbrooke, Governor of Nova Scotia, sailed from Halifax with Dragon 74, the frigates Endymion and Bacchante, and the sloop Sylph, with ten transports, having on board a company of artillery, two companies of the 60th and the 29th, 62nd and 98th Regiments, in all about 1,800 men. Their destination was the Penobscot, which they reached on the 31st, and were there joined by the Bulwark 74, and four other ships of war. On the following day, they appeared before the fort at Castine, which was immediately blown up by its commander, the garrison escaping up the river. The United States corvette Adams 28, which had just returned from a cruise, was up the Penobscot and arrangements were at once made for her destruction. This operation was entrusted to Capt. Barrie of the Dragon, and Lieut. Col. John who commanded a detachment of 600 men of the 29th, 62nd, 98th and 60th Regiments. Capt. Morris of the Adams, had made preparations to defend his vessel and stop the British advance by placing her heavy guns on a high bank near Hampden, so as to command the river. In addition to his crew of 220 men, he was supported by 600 militia under General Blake, and about 40 regulars who had escaped from Castine. On the morning of Sept. 3rd, this force was attacked by the British detachment and almost instantly dispersed. The militia of Maine fled without firing a shot and the regulars and

seamen speedily followed their example. The British captured about 80 prisoners and took twenty-five cannon. Pushing on to Bangor, they occupied that place and accepted the surrender of General Blake and 190 of his men. They also took two brass cannon, three stands of colors and other spoil. The Adams and two other ships, one of them armed, were destroyed by the enemy. Six vessels were burnt at Bangor and twelve were brought away. The British rebuilt and garrisoned the fort at Castine and it remained in their possession until the end of the war.

On the 9th September Lieutenant Colonel Pilkington was sent with a small force to effect the capture of Machias. The naval part of the expedition was under the command of Captain Hyde Parker. The British disembarked at Buck's Harbor and, after a difficult night march, reached the rear of Fort O'Brien at daybreak on the 10th. The garrison consisting of 70 regulars and 30 militia instantly evacuated the fort and escaped into the woods. Machias, East Machias and the Point battery were occupied the same day, and altogether 26 cannon and 160 stand of small arms were taken. The Militia of Washington County agreed not to bear arms during the war. The result of these operations was that the whole of Eastern Maine, from the Penobscot to the New Brunswick boundary, was in the hands of the British. It is difficult to understand why the British took the trouble to capture them if they were not to be used as a means of getting a better boundary line. The treaty of peace ought to have contained a definite description

of the boundary between the British possessions and the northern United States, and that line ought to have kept well to the south of the St. John River. But this matter was wholly neglected by the British Commissioners, who concluded the treaty, and all the substantial fruits of the three years contest were wantonly thrown away.

There was no session of the Legislature in 1815, the supplies having been voted for two years at the session of 1814. This proceeding had become altogether too frequent, during the period when the government of New Brunswick was administered by Presidents, there being no session of the Legislature in 1804, 1806, 1809, 1811 or 1815. The last named year, however, brought this evil fashion to an end, and since then there has never been a year when the Legislature did not meet. In August, 1814, General Smyth returned to the province and resumed the presidency, and he continued in that position until after the close of the war.

One result of the war was to largely increase the commerce of St. John. Mr. William M. Jarvis makes this clear in a communication to the author, which I quote:

"My father, Mr. William Jarvis, who died in April, 1856, was engaged in the hardware business in St. John at first with his father, Munson Jarvis, who had arrived in St. John in 1783, as a United Empire Loyalist, under the firm name of Munson Jarvis & Son. On his father's death, about 1826, he carried on the business alone until 1842, when his store having been destroyed by fire, he gave up his

former business and was engaged in shipping until his death. I recollect his speaking to me about the War of 1812. His statement was that that war was urged on by the southern states, while the northern states were averse to hostilities, and there was practically a truce along the border line between Maine and New Brunswick. The embargo maintained by the British warships along the United States coast led to a dearth of manufactured goods in the United States, where manufactures generally were carried on to a very limited extent. My father and grandfather's importations were made chiefly from Bristol, and he told me that just before the war broke out they had taken stock and were somewhat alarmed at the amount of old or dead hardware stock they had in their store. This had greatly accumulated during the twenty years after my grandfather's business at St. John had commenced. The result of the state of affairs in the United States was the establishment of a large contraband trade along the Maine border, perfectly legitimate however from the New Brunswick standpoint. Purchasers of manufactured goods came to St. John from the United States, the dead stock was cleared out and goods were sold as rapidly as they could be imported. The same thing probably occurred with other St. John merchants, and the foundation was laid at St. John for a period of prosperity which the city long afterwards enjoyed."



CHAPTER XXI.

THE peace which came in 1815, was nowhere more heartily welcomed than it was in the Province of New Brunswick. For more than twenty years, except for a brief period after the Peace of Amiens, Great Britain had been at war with France. For three years there had been war with the United States, a most unnatural and unfortunate contest between two people of the same race and language, who should be always at peace. The generation of young men just grown up had never known any other condition but that of war, but now they were on the eve of a great change. For the next forty years Great Britain was to be at peace with every civilized nation, and neither wars nor rumors of wars were to interfere with the peaceful progress of the Empire. New Brunswick was about to begin a period of development which, in the course of a few years entirely altered the conditions of life in the Province; indeed this development had already begun. The first indication of the change was a sudden and extraordinary increase in the revenue. In 1815, the first year of peace, the revenue was just four times as great as it was in 1811. In 1816 it was five times as great as it had been the year before. Then there was a falling off, but only for one year for in 1818 the revenue was greater than it had been

in 1815, and in 1819 it rose above the figures of 1816. Part of this increased revenue was due to higher duties, but the principal cause of it was increased trade. The commerce of the province was beginning to be important, and its merchants were growing wealthy. St. John had ceased to be a village and had become a town, and Fredericton, although less favorably situated for trade was also growing. Judge Winslow in a letter to his son written just before the out-break of the war describes the improvements in that town, and with the contempt of an aristocrat for the common people says "our shoemakers are all turned merchants, and appear to have made their fortunes." St. Andrews was then a busy and thriving place which aspired to rival St. John, and the Miramichi district was rapidly rising to importance. Its magnificent resources in timber were beginning to be developed, and the time was near when its exports would equal those of St. John.

The legislative session of 1816 was the last of that House of Assembly, which had only met five times, although it had been elected seven years. The legislature met on the 11th of January, and sat until the 16th of March. President Smyth made a longer speech than usual, and directed the attention of the members to many important subjects, such as the revenue, the militia law, schools, the opening of roads and the improvement of the navigation of the large rivers. He was able to congratulate them on the prosperity of the Province, which he chose to attribute to the British Constitution which had been extended to New Brunswick. Thirty-two acts were

passed including a new militia law, an act to establish a grammar school in St. Andrews, and another to establish grammar schools in the other counties of the Province. There was also an act for the establishment of certain highways as great roads, the foundation of the later law on that subject, and an act to encourage the establishment of schools. This provided for the appointment of school trustees in each parish by the Justices in Sessions, and the raising of money for school purposes by assessment when ordered at a meeting of the freeholders and taxpayers. This was a long step in advance of any previous law, but two years later the power of assessing the inhabitants for the support of schools was taken away, and the sum of one hundred pounds appropriated from the public treasury to each parish not more than twenty pounds to be given annually to any one school. This was a step backward, and it was not until more than half a century had passed that the true principle of maintaining schools for the education of the youth of the country, by assessment, was adopted.

At this session was also passed the first act of the legislature giving a bounty to fishermen. It applied to vessels of thirty tons and upwards engaged in the cod and scale fisheries and the bounty was twenty shillings per registered ton. The whole amount to be given in bounties was limited to three thousand pounds in any one year. This act was renewed and continued in operation until 1822, when it was replaced by another, similar in its main provisions which remained in operation until 1833. There was a conflict between the House and

the Council in regard to bills to regulate assessments and to ascertain rateable estates. The Council succeeded in defeating both these necessary measures, acting as usual in the interests of themselves and their friends. The spirit in which they acted is thus stated by Mr. R. Pagan and Mr. S. D. Street, who had been appointed to manage the conference with the Council on these bills: "The effect of the objectionable amendments is evidently to take the tax or burthens from one description of persons, and impose it on another; as for instance, to relieve the owners of large and valuable tracts of unimproved land, which are constantly growing in value by the labors of the owners of small tracts of but little comparative value, from any part of the assessment, and thereby necessarily to impose additional burthens upon those of the latter description."

Among the acts of 1816 was one relating to the plaster trade, a business which apparently caused the legislators of that day a great deal of anxiety. To avoid the absurd navigation laws of both countries this trade was carried on by conveying plaster from the quarries of New Brunswick and Nova Scotia, in British vessels to the waters of Passamaquoddy Bay where it was transferred to American vessels. The Act now passed made it unlawful to land plaster at any port in the United States east of Boston or anywhere within the limits of the Province except at St. John or St. Andrews. The object of this measure was to throw the carrying trade in plaster to American ports into the hands of New Brunswick and Nova Scotia

shipowners. It was deemed so important that when it was passed it was sent by special messenger to Nova Scotia at a cost of fifty pounds, in order that a similiar act might be passed by the Legislature of Nova Scotia. The legislature of the sister province passed an act identical in all respects, and both acts received the Royal appropbation and came into force by proclamation on the 31st January, 1817. These acts proved quite ineffective, and led to immediate retaliation on the part of the United States. One act passed in March, 1817, forbade the importation of plaster from any country from which it could not be brought by vessels of the United States, while another passed at the same time, provided that no goods, wares, or merchandise, should be imported into the United States from any foreign port, except in vessels of the United States or in such foreign ships as truly belonged to the citizens or subjects of the country in which the goods were produced. This last act was aimed more particularly at Great Britain.

As the plaster law was evidently not helping the shipping of New Brunswick, business men were very anxious to have it repealed, and in 1818 an act was passed authorizing the government to suspend its operation. The matter rested until 1820, when it suddenly occurred to the members of the legislature that a duty might be collected on plaster exported and it become a source of revenue. Accordingly another plaster act was passed imposing a duty of seven shillings and six pence a ton, on all plaster brought into the County of Charlotte. By the same act authority was given to

appoint a preventive officer to see that the law was enforced. This law was no more successful than its predecessor. Mr. Stephen Humbert, the preventive officer, with only a few men at his command, found himself utterly powerless to put a stop to the illegitimate trade or collect duty. He was resisted by the captains and crews of the plaster vessels with muskets and other weapons, and his life put in jeopardy. At one time as many as fifty vessels, laden with plaster, were anchored in Passamaquoddy Bay and their crews were combined to resist Mr. Humbert and his men. The attitude of the plaster men was one of utter defiance, and they were supported in their resistance by the public sentiment of the people of Nova Scotia, who did not relish the idea of plaster from their province being forced to pay tribute in the shape of duty in New Brunswick. Both branches of the Nova Scotia legislature addressed a remonstrance to the Governor of that province against the New Brunswick plaster law, and although this remonstrance was treated by the New Brunswick Council as a breach of privilege, the law was repealed at the session of 1821. Probably the action of the legislature in repealing this law was hastened by an act which had been passed by the Congress of the United States forbidding any British vessels from the British North American Colonies to enter United States ports, and making it unlawful to import any goods from these colonies except such as they produced.

At this session of the Legislature an act was passed authorizing the purchase by the Province, of

the House, in which Governor Carleton had resided. The latter had become a large owner of land in the vicinity of Fredericton and had built himself a residence on the site still occupied by the old building known as Government House. This House and about fifty acres of land, were sold to the Province for three thousand five hundred pounds, and one hundred and fifty pounds was paid to the College in commutation of ground rent, for a part of the land had been leased from the College. This transaction closed the connexion of Governor Carleton with the Province of New Brunswick, and he died a few months after it was completed. He had filled the office of Governor for almost thirty-three years, during about fourteen of which he had been an absentee, enjoying one-half the salary of his office but doing nothing to earn it. During his long residence in England he seems to have ceased to exercise any influence on the affairs of this Province, his recommendations were not regarded, and all substantial power passed out of his hands. Even those who had been his firmest supporters forsook him in his old age, and made cruel remarks about his indolence, his coldness of heart and his indifference to the interests of his friends. The party which he had gathered about him while in New Brunswick, kept together for some years after his departure, but death began to deplete its ranks and the rise of new men to influence, modified its character. It was no longer supreme in the Province, as it had been in the good old days when the Governor and his Council controlled everything.

The fifth House of Assembly was dissolved in July, 1816, and the elections took place immediately. There were a considerable number of changes in the representation of the different constituencies, the most noticeable being the absence of William Pagan, who had sat continuously as a representative of St. John since 1786. Mr. Pagan's legislative record was an honorable one, for he was always found on the side of the people. In 1817 he was appointed a member of the Council, being the first man, not a member of the Church of England, who obtained a seat in that body. Mr. S. D. Street was another of the old members who did not appear in the new House. He had been a member of the third and fifth Assemblies and had been a most useful representative, supporting Mr. Glenie most loyally in his efforts to improve the administration of public affairs. No man in the Province except Mr. Glenie, had been the victim of so much vulgar abuse from the persons who posed as gentlemen and members of the Provincial Aristocracy. He had been systematically excluded from every position of honor or emolument, although his claims were undoubtedly superior to those of many who were preferred to him. He was now well advanced in years and perhaps age had weakened his regard for the rights of the people, for in 1819 he became a member of the Council and fell into the ways of that obstructive body. Two of his sons who entered political life, abandoned altogether the path which their father had taken in his youth, and became violent supporters of the old family

compact and all its abuses. They were admitted into the sacred circle that had been closed to their father and associated with men who had made him the object of their ridicule and abuse.

The Legislature met in 1817, on the 4th February, and it was not prorogued until the 22nd March. As the Speaker of the former House had become Provincial Treasurer and was not a member of the new House, it became necessary to elect a new Speaker, and this honor fell to William Botsford, a son of the first Speaker, who had been elected to represent the County of Westmorland. The President who met the Legislature, was not General Smyth, who had been called to Nova Scotia, but Lt. Col. Harris W. Hailes, an old officer, who had been a resident of the Province from its first formation, filling the office of Fort Major, and who now, as the Senior military officer in the Province, assumed the government. Hailes must have found his position rather an awkward one, being placed over the heads of so many men who were his superiors in everything else but military rank. An ex-Fort Major must have seemed a very small man to such a personage as Judge Saunders or Jonathan Odell, yet the regulations of the British Government of that day made him their superior. There was no order given by the home authorities that was so unpopular as that which took away the right of succession to the presidency from the senior member of the Council, and gave it to the senior military officer. Bnt the Council in 1817, was a very different body from the Council of 1784. Of the original members of the

Council the only survivor was Jonathan Odell. Of the others who were appointed prior to the close of the eighteenth century Daniel Bliss, Judge Upham, and Beverley Robinson were also dead, and George Leonard had not sat in the Council for several years. The only members who attended its meetings regularly, were Chief Justice Bliss, Judges Saunders, Bliss and Chipman, Mr. Odell and Mr. Sproule. All these men were officials in the pay of the province, or of the British Government and four of them, in addition to their duties as members of the Executive and of the Legislature, had also to perform judicial functions.

President Hailes in his opening speech, suggested a number of topics for the consideration of the Legislature, the state of the revenue, the improvement of the means of communication, and the encouragment of agricultnre by means of bounties. He did not refer to a matter which immediately engaged the attention of the legislature, the destitution which had arisen in consequence of the failure of the crop throughout the Province, which had left some without food, and many without seed or the means of procuring it. At an early day in the session, a committee was appointed to inquire into the necessities of the inhabitants occasioned by the failure of the crop, and the sum that would be required to relieve them. As a result of their inquiries, an act was passed providing for the expenditure of six thousand pounds by commissioners, in the purchase of grain and potatoes, for seed to be distributed to persons who were in need of them. Receipts were to be taken for the articles

given, and payment was to be made in money or work on the roads. The Province is still in possession of most of these receipts, and it is almost unnecessary to say that they have never been paid. The accounts of the Commissioners show that they sold flour to the destitute, in small quantities. All the articles brought famine prices; flour was six pence a pound, or twenty-one dollars a barrel, rye flour twelve dollars a barrel, wheat three dollars and a half a bushel; corn two dollars and a half a bushel, potatoes about one dollar a bushel. The amounts disbursed to each person were in most cases quite small, 328 persons being relieved in St. John county, at a cost of £1,008 2s. 6d., and ninety-five persons in Sunbury, at a cost of £351. An act was passed at the same session, forbidding the exportation of corn, meal, flour and potatoes, from the province for four months.

This threatened famine seems to have aroused the Legislature to the necessity of doing something to increase the productiveness of the province, for at this session, an act was passed granting bounties on wheat, rye, Indian corn, buckwheat, barley and oats, grown on new land. This act was continued by an act passed in 1820, and again in 1826, and expired in 1833. Its passage at this time was a proof that the neglect of agriculture is not a modern evil, and that eighty-five years ago there was a disinclination on the part of the young men of the Province to settle on wilderness land. The complaint was then heard, as it has been many times since, that the lumber industry was injuring agriculture by withdrawing the most active and vigorous of the young men from the farms.

Evidently the great want of New Brunswick was population, and this view had so strongly impressed itself on the legislature in 1816, that a sum of one thousand pounds was voted to encourage immigration. The result of this movement was the arrival of one hundred and eleven persons from Greenock, in the ship Favorite, in the autumn of the same year. Most of these people had little or no means, and some additional expense had to be incurred in settling them so that they could make their own way. This was the beginning of an emigration to New Brunswick which at one time reached large proportions, for the close of the great war was followed by hard times in Great Britain. and many persons were thrown out of employment, Both the 104th Regiment and the New Brunswick Fencibles were disbanded this year, and a considerable proportion of the men settled on wilderness farms. There was also another and less desirable element added to the population of the province about this time. During the operations of the British fleet on the coast of the Southern States during the war, many slaves fled to the warships to escape a life of hopeless servitude. The British would have preferred not to be troubled with them but in many cases their pleading for liberty could not be resisted, and about two thousand of them arrived in Halifax after the war. In April, 1815, the Governor of Nova Scotia communicated the news of their arrival to the President of New Brunswick, and asked him to provide for four or five hundred of them. This was submitted to the Council and agreed to. They arrived in May to the

number of about 400, and were disposed of in various ways, a good many of them being allowed grants of land, 50 acres with a frontage of 20 rods being given to each. The settlement at Loch Lomond was founded by these negroes. They did not make good settlers being lacking in those qualities of thrift and industry which are so essential to success in a new country. The negro population of New Brunswick was never considerable, although the Loyalists brought with them several hundred slaves. There are now less than two thousand colored people in the province, about half of whom live in the cities and towns. Two thirds of these negroes are probably descendants of the slaves that were brought to the province in 1783.

President Hailes, a few days after the opening of the legislature, sent a message to the House recommending that provision be made for the payment of the members of the Council, acting in their executive capacity. The House went into committee on this message, but declined to take any action, a decision which seems to have greatly provoked the Council, for two days later they passed a resolution that in future no bill, resolution or other proceeding founded on any application addressed to the House of Assembly, be sustained by the Council unless an application to the same effect, with such documents as may accompany the same, be also presented to the Council. This meant that all petitions sent to the Assembly must also be sent to the Council. From this time until the end of the session, the conduct of the Council was only distinguished by its perversity. They threw out about half the bills

sent up to them by the House and rejected nearly all the bye road grants for roads and bridges, absolutely refusing to agree to the request of the House for a conference on these grants. A large number of other important grants for necessary services were also negatived by these petulant legislators. The interests of the Province were nothing to them so long as their own spiteful feelings could be gratified. Among the grants thus summarily rejected, was one for one hundred and sixty pounds to aid in the establishment of the Scotch settlement at Napan.

President Hailes continued to administer the affairs of the Province for more than a year, or until November, 1817, when he was succeeded by General Smyth, who had been appointed Lieutenant Governor on the 28th February, just twenty-six days after the death of General Carleton. As Smyth was in Halifax when Carleton died, he must have had influential friends in England working for his interests. General Smyth professed to regard this appointment as a tribute to his own merit, and it greatly increased his idea of his own importance. He therefore returned to the Province in a frame of mind but little suited to a course of moderation and conciliation with regard to the legislature and the people, and certainly no more unfit person could have been selected to govern a colony like New Brunswick, than General Smyth. Reared in a barracks and accustomed from his earliest youth to implicit obedience to all orders given by his superiors, he could have no correct idea of the feelings of the people he governed, or

sympathy with their views. The maintenance of the old system by which the Province had been misgoverned for thirty-five years, was the leading feature of his policy, and he looked upon the efforts of the House of Assembly to bring about a better state of affairs as seditious and even treasonable.

The Treaty of Ghent by which peace was made between Great Britain and the United States provided for a commission to decide the ownership of the Islands in Passamaquoddy Bay, all of which since the capture of Eastport, had been in the possession of the British. The Commissioners selected for this important work were Thomas Barclay for Great Britain, and John Holmes for the United States. The British agent was Ward Chipman. The Commission first met at St. Andrews in September, 1816, and adjourned to meet in Boston in May of the following year. The decision, which was finally rendered in November, 1817, gave Moose Island, Dudley Island and Frederick Island to the United States and all the other Islands, including Grand Manan, to Great Britain. This decision was accepted by both nations, and one portion of the vexatious boundary question set at rest. Eastport, which had been held by the British since its capture in 1814, was, under this decision, restored to the United States.

When the legislature met on the 21st January, 1818, Governor Smyth was able to congratulate its members on the favorable result of the boundary commission. His speech was mainly made up of an eulogy of the conduct of Great Britain in bringing the late war in Europe to a successful close, in

abolishing the slave trade and diffusing the Holy Scriptures to the remotest nations in their own languages. His only references to the local concerns of the province, were with regard to the success of the settlements of the disbanded soldiers of the 104th and New Brunswick Fencibles on the line of communication with Canada, and to the schools which had been founded under the acts for extending and improving education. There was an air of peace and contentment about the Governor's speech which seemed to promise a peaceful and harmonious session. Yet all this apparent calm was merely on the surface, for this session was the beginning of a period of agitation which never ceased until the old order of things had passed away and the battle of reform had been won. The first movement hostile to the Governor, came from Capt. Agnew, a member for York, who for many years had supported the Governor, asking him to lay before the House copies of such portions of the royal instructions with regard to the granting of crown lands, as he might think proper, and also copies of the regulations under which the fees on land grants had been taken at the different public offices. This was carried and when the papers were brought down they were referred to a select committee, who reported that they could find nothing in the royal instructions to justify the system, which had been recently adopted at the Crown Land Office, of compelling each applicant for land to take out a separate grant. The reason why the Crown Land officials insisted on a separate grant to each applicant, was that their fees

were thereby increased. These fees were so enormous that the officials who exacted them speedily became rich. For a lot of land not exceeding three hundred acres they amounted to £11 13s. 4d., and for one thousand acres granted to ten grantees in severalty the fees charged were £55 11s. 10d., or about $222 of the money of the present day. Enjoying such enormous perquisities it is not surprising that the officials of those days desired no change, and looked upon all who criticized their conduct as little better than rebels. The committee, in their report, expressed the opinion that if the system then in force was continued, it would be highly injurious to the interests of the public and amount almost to a prohibition of the future settlement of the province. Acting on this report the House again requested the Governor to furnish them with such parts of the royal instructions as he deemed necessary, and he sent them a copy of a letter from Lord Bathurst as to the mode of passing the King's grants. This letter which was dated May 13th, 1817, stated that in future the grants should be made out separately to each individual applying for them. The committee of the House reported that Lord Bathurst evidently did not understand the mode of granting lands in this province, and that as his letter merely pointed out a remedy for evils that did not exist, it could not be taken to justify the system complained of by the House. This was followed up by a resolution of the Assembly, asking the Council to join with them in an address to the Prince Regent against the existing system of granting land, and asking that

the practice of including several grantees in one grant be again adopted. The Council declined to accede to this request, alleging as a reason for their refusal that, in their capacity of privy councillors, they had already adopted measures to carry the object of the address into effect. This was true enough, but there was no reason why they should not join the House in the address. As it was the address of the House to the Prince Regent was forwarded, without reference to the Council, and a reply was received from Lord Bathurst in which he stated that he saw no objection to continuing the system including a number of grantees in one grant. The whole affair was a singular illustration of the loose manner in which the affairs of the department which had charge of the Colonies were conducted. Apparently President Hailes had been influenced by the officials who profited by the change to suggest this new method of issuing grants, and it was adopted by Lord Bathurst without any farther inquiry.

The Council and House of Assembly joined in another address to the Prince Regent on a subject which was beginning to become interesting, the British timber duties. The duty on foreign timber in Great Britain was heavy, while in 1818, Colonial timber went in free. There was an apprehension which proved in the end to be well founded, that the duties on foreign timber would be reduced, and a duty placed on Colonial timber. The address of the Council and House of Assembly to the Prince Regent was a protest against the imposition of such a duty, and it was stated that the exports of squared timber from New Brunswick inthe year 1817, were

upwards of two hundred thousand tons, all of which went to the United Kingdom. This was the first of a long series of similar protests, some of which will be noticed in future pages, but which in the end proved wholly ineffectual. The timber duties were doomed, and although many years passed before they were finally abolished, the time at length came when they were swept away, and both foreign and colonial timber placed on the same footing.

But although the Council and Assembly joined in this address the relations of the two branches of the legislature were by no means cordial during the session. An unusually large number of bills that the House had passed, were rejected by the Council and many appropriations were also thrown out, among them all the grants for the bye roads. The Council also threw out the grant of one hundred pounds to the Speaker of the House, and twenty shillings a day to each member for his expenses and travelling charges. This was a revival of the old quarrel which had left the Province without either a revenue act or an appropriation act twenty years earlier. The Assembly nothing daunted by this rebuff sent up a separate bill to provide payment for the Speaker and members, and this act was agreed to by the Council. The act was to remain in operation during the existence of that House of Assembly. It was followed by another bill to provide for the payment of the actual expenses of the members of the Council. This was also agreed to by the Council, with a proviso that it should not come into operation until it had received the approbation of His

Majesty. This proviso had a curious result. Nothing more was heard of the bill until the year 1822, four years after it had been passed, when a despatch was received from Earl Bathurst stating that it had been disallowed, and that the bill for the payment of members of the House had also been disallowed. The latter bill had not been reserved, the Speaker and members had been paid under its authority and it had expired, because the House that passed it had ceased to exist. Another House had been elected and had passed a similar law, and it had also been dissolved by the irate Governor. A third House was now holding its second session, having at its first passed an act providing for the payment of members, and yet after all these changes, Lord Bathurst suddenly wakes up and disallows an act which was not reserved for his consideration, and which had already done its work. The reason given for the disallowance of these two acts, was, that "It would be more suitable to the dignity and independence of legislative bodies to meet in General Assembly without receiving daily pay, and their Lordships have no reason to apprehend that the Province of New Brunswick could not furnish representatives who would be ready to perform their duties as members of the Legislature, without receiving a pecuniary allowance for that service." The truth of the matter was that their Lordships knew nothing about the matter and cared less. They acted on the advice of the Colonial Minister, who received his inspiration from Governor Smyth, who had made up his mind to prevent the members receiving pay.

CHAPTER XXII.

THE distress which existed in the Province in 1816, in consequence of the failure of the crops, was felt to a still larger extent in the United Kingdom, where a considerable percentage of the population had been thrown out of employment, as a result of the stagnation in trade which followed the close of the war. It was at that time that emigration began to be looked upon by many, as the only cure for the evils from which they were suffering and a great movement began towards America. This brought a large number of people to New Brunswick in 1817 and the following years, and among these emigrants were many who were in a condition of such dire poverty that they became a public charge. All the communities in New Brunswick found themselves involved in this responsibility, but the people of St. Andrews complained that they had more cases of distress on their hands than any other part of the Province. They complained that while the strong and able-bodied emigrants who landed there took the first opportunity of going off to the United States, the feeble and infirm were left behind for the town to take care of. There is at present no means of ascertaining the extent of this emigration, for there are no official figures, but it must have been large

and its effects were on the whole beneficial. Most of the immigrants indeed had the United States in view and only made New Brunswick a stepping stone to their goal, but many remained in the province and became good settlers. The Governor and his Council found it necessary to make provision for these immigrations and some of the most important settlements in the province date from this period. In August, 1817, a large number of emigrants arrived and many of them were settled on the portage between the Nashwaak and the Miramichi Rivers, receiving from the Government lots of 100 acres. The arrival of more emigrants in the spring of 1818, made it necessary to provide more land for them and in addition to the still unsettled lands on the Miramichi portage, surveys for settlement were ordered of the land lying in the county of St. John on each side of the proposed road from Loch Lomond to Quaco, and of the land lying between the head of Hammond River and Hopewell. In May, 1819, it became necessary to appropriate more land to the use of the emigrants and one hundred and twenty additional lots of one hundred acres, were ordered to be surveyed. Forty of these were on the route from St. John to Fredericton, commencing at the granted lands near the Nerepis, forty were on the great road from St. John to St. Andrews, and forty in the rear of Prince William, about five miles from the River St. John.

In July, 1819, twenty-five Welsh emigrants petitioned for land, and were provided with lots in the rear of the Nashwaak Stream, now known as the Cardigan settlement. In September of the same

year it became necessary to survey and lay out one hundred additional lots for emigrants on the Shepody Road. In April, 1820, further surveys for settlers were ordered, all the ungranted land in the Cardigan settlement fit for tillage was laid out in farms, one hundred additional lots were laid out in the County of St. John on the Shepody Road, and the land between the mouth of the Oromocto River and the Nerepis was explored with a view to future settlement. In May, of the same year, an order was given to survey one hundred lots for emigrants on the road between the Gaspereaux River and Cape Tormentine. In June sixty allotments for emigrants were laid out in the New Galloway settlement, in what is now the County of Kent. Other surveys were ordered about this time and many industrious people from Great Britain were thus enabled to make homes for themselves in the forest, and lay the foundations of future prosperity. These new settlements and those made on the road from Fredericton to Canada, by the disbanded soldiers of the 104th and 98th Regiments, and the New Brunswick Fencibles, added very materially to the industrial development of the Province. A good crop in the year 1818 greatly improved the situation, and caused the settlers to forget the scanty harvests of former years.

Governor Smyth opened the Legislature on the 5th February, 1819, in a highly optimistic speech, in which he congratulated the members on the prosperity of the province, the great increase in the revenue and the improvement in the roads. He asked

them to take measures for the prompt payment of grants at the treasury, the improvement of agriculture and the extension of the Madras School system to the province. Governor Smyth had become greatly impressed with the advantages of this system of teaching children, in consequence of its cheapness, which was no small recommendation in a poor province like New Brunswick. The system derived its name from the schools which were established by Dr. Andrew Bell at Madras, and similar schools were organized in England by Joseph Lancaster. Under this system the more advanced pupils were utilized to teach the younger children, so that the salaries of assistant teachers were saved. But the system was not applicable to New Brunswick because the population was too much scattered and large schools could not be obtained except in the towns. Already a beginning had been made in St. John by the appointment, at a public meeting, of a committee for the establishment of what was called a National School under the Madras system, and the legislature at this session gave a grant of two hundred and fifty pounds to this committee to assist in the building of a school house. In August, 1819, Governor Smyth granted a charter to the Madras School, and this was confirmed by the legislature in 1820. The Central school was in St. John, but Madras Schools were also established in other towns such as Fredericton and St. Andrews, and even in country districts. In 1827 there were 31 Madras Schools in operation, attended by 1246 pupils, of whom 422 were attending the school in St. John and 53 the

school in Fredericton. There was a school for negro children in St. John, and another in Fredericton. The St. Andrews School had 66 pupils and that at St. George 55, but most of the other schools were small. The Madras schools, although originally intended for all denominations, in the course of time became virtually Church of England schools, the catechism of that denomination being taught in them. Most of the rural schools were finally abandoned, and in 1870, the year before the Common School act was passed, there were only eleven Madras schools in the province, of which three were in St. John. These had 881 pupils, and the school in Fredericton 254, a total of 1,135 for these two cities. The total number of pupils attending all the Madras schools in the province was only 1,424, so that they had grown very little in half a century. Their income, however, was considerable for they had received valuable grants of land from the province in addition to private benefactions, one of them being a bequest of $20,000 by the late Chief Justice Chipman. The introduction of the free school system took away most of the pupils from the Madras schools, and closed many of them, they being much inferior to the common schools with respect to educational advantages. Still they continued to exist under the old charter, without any responsibility to the Province by which they had been founded and endowed, until 1900 when an arrangement was made by which upwards of $10,000 of the securities held by them were transferred to the University of New Brunswick, for the support of

that institution, and the balance of their property handed over to the Diocesan Synod of Fredericton for the maintenance of schools to be under their control. This arrangement was ratified by legislative enactment and thus the remaining Madras schools became Church of England Schools by authority of law.

As the principal object of the House of Assembly in seeking to have a change made in the system by which grants were issued was to reduce the amounts that had to be paid in fees, it was quite natural that they should seek to ascertain to what extent the fees had been reduced by Lord Bathurst's order, permitting a number of grantees to be included in one grant. Accordingly an address was passed to the Lieutenant Governor asking for a copy of the table of fees charged on grants. When this was brought down, it was seen that the fees had not been materially reduced by Lord Bathurst's concession to the demand of the Assembly. Where a number of grantees were included in one grant the cost to each grantee receiving one hundred acres of land was about twenty-six dollars. These fees were divided between the Governor, the Secretary, the Attorney General, the Surveyor General and the Auditor General. All these officials were therefore interested in keeping the table of fees unaltered. They were much less concerned in the welfare of the Province than that their own perquisites should not be reduced, and the lack of any authority in New Brunswick that could check them aided their exactions. The same spirit prevailed among all

the officials in the Province who were under the direct control of the British Government.

In 1818 the Council had to deal with a matter of the highest importance to the commercial interests of the province, the fees charged at the Custom House on shipping. At that time the whole of New Brunswick was considered as one port; the port of St. John, and all the other ports in the province such as Miramichi, St. Andrews and Shediac, were merely out-bays of the port of St. John. This establishment, as already explained, was under the control of the Imperial government, and the Customs revenue went into the Imperial Treasury. At St. John there was an officer styled a collector, who was the head of the Customs establishment, and a Comptroller whose jurisdiction extended over the shipping that entered and cleared. Both officials were paid by fees, and these fees, although based on a scale that had been established when the province was a part of Nova Scotia, seem to have been changed occasionally to suit the views of the collector. The collector of St. John in 1818, was Henry Wright, who, on the death of the former collector, Mr. Wanton in 1816 had been transferred from Shelburne, N. S., to this province; the comptroller was Robert Parker who had filled that position from the founding of the province. Wright seems to have made up his mind that it was proper for him to increase the fees, which were already very oppressive, for the purpose of enriching himself. The merchants and shipowners speedily began to complain, but their complaints would have gone unheeded had he not had the misfortune to

fall foul of the redoubtable General Coffin. The latter was a member of the Council, and, what was important, he had the ear of Lord Bathurst. He wrote a letter to that nobleman relating the enormous exactions of Collector Wright, and which also involved the character of Robert Parker, the comptroller, who aided Wright in his conspiracy against the public, and shared his unlawful gains. Lord Bathurst sent General Coffin's letter to the Governor and directed him to make an immediate investigation. The matter was entrusted to a committee of the Council consisting of William Pagan, John Robinson and the Attorney General. Pagan, who had long been a merchant of St. John, was admirably qualified for this work, and the same may be said of Mr. Robinson, who was the Treasurer of the province. Wright and Parker sought in every way to evade an investigation, but sufficient evidence was available to convict them of the charges General Coffin had made against them. It was shown that in 1817, Wright had received a net income from fees on shipping, of upwards of £2,900 sterling, while Parker had got about half that sum. The collector's income was therefore nearly one thousand pounds larger than that of the Governor who had a salary of £1,500 and about £500 from fees. Wright had succeeded in obtaining upwards of one thousand pounds more from fees in 1817 than his predecesor had received during the last year he held office. The report of the Committee, which was adopted by the Council, recommended an entire change In the existing system, a reduction in the scale of fees, the payment of the collector and comptroller by

fixed salaries and the erection of Miramichi and St. Andrews into separate ports. These recommendations were forwarded to Earl Bathurst, and in the course of time they were adopted, although not until several years had elapsed. A curious outcome of this matter was a challenge to fight a duel from Neville Parker, a son of the Comptroller, to General Coffin. The General who was then sixty-seven years of age, declined the challenge, but offered to fight the father, whose age was about the same as his own. No hostile meeting arose out of this affair, and the young challenger afterwards became master of the rolls, and a Judge of the Supreme Court of New Brunswick.

The question of timber reserves again came up for discussion during the session of 1819. The British government at that time administered the affairs of the province, not for the benefit of its people but for the supposed benefit of the mother country. It claimed not only all the ungranted lands in the Province, but also the revenue derived from them, and it exercised the right of closing large areas against settlement, under the belief or pretext, that the areas so closed were preserves of large pine trees from which the Navy could be supplied with masts. The people of Charlotte and Northumberland Counties complained that these timber reserves, as they were called, impeded settlement and also hindered the timber trade which was the principal industry of the Country. The matter had been brought under the notice of the legislature in 1817, and at the instance of the Council, Mr. George Morehouse, a deputy

Surveyor, had been appointed to report on the state of the timber reserves. This had been done with respect to the Northumberland reserves, and he found, that of the land so locked up but a small portion contained any pine timber fit for masts. The Charlotte reserves had not been reported upon, yet it was from that county that the complaints with regard to the reserves had first come. The House of Assembly now asked the Council to join in an address to the Prince Regent, praying that the restrictions might be removed from the reserves in Charlotte and Northumberland, Counties in order that they might be opened to His Majesty's subjects. The Council, acting no doubt under the inspiration of the Lieutenant Governor, refused this request and the matter went over until the next session, a committee being appointed to prepare an address on the subject during the recess.

In 1818, after the prorogation of the Legislature, Governor Smyth laid before the Council a plan he had in view to recommend to the Colonial Minister for the payment of a specific sum of money per ton on all licenses issued for the cutting of pine timber. He asked the advice of the Council as to the sum that should be demanded, and they recommended one shilling per ton. This matter was brought to the notice of the House by Colin Campbell, one of the members for Charlotte, and it was resolved that "the House of Assembly have learnt, with surprise and regret, that bonds are taken at the office of the Deputy Surveyor of Woods, for one shilling per ton on all licenses to cut and manufacture pine timber in this Province." The resolution

then went on to state that this measure if persisted in would be ruinous to the timber trade of the province, and it requested the Governor to inform the House if any recent instructions had been received from His Majesty's Ministers requiring such bonds to be taken, and also to what purpose the money so collected was to be appropriated.

The Governor's reply to this memorial of the House, was curt and not very satisfactory. He said that owing to representations made to the Government in England, in regard to the great and unwarrantable destruction committed in His Majesty's woods in the province, positive orders were issued by the Lords Commissioners of His Majesty's Treasury forbidding any licenses to be issued for cutting timber, except by the sanction of the Lieutenant Governor. These orders, he stated, had been communicated to the Council who, after deliberate consideration, arranged and recommended a system which, in their opinion, might effectually prevent the recurrence of similar mischiefs in the future. The shilling a ton formed part of that system, and the money realized from it, as well as all other sums of money which might accrue from the sale or other disposition of property belonging to the Crown, would be appropriated to such uses as His Majesty might be pleased to direct. A reference to the minutes of the Council shows that this statement of the Governor was only true in part. Governor Smyth was himself the originator of the system to which he refers, and he had already decided, without any authority from the

King or the Prince Regent, that the shilling a ton duty was to be appropriated to the protection of the King's timber from waste, and paying the requisite fees.

This reply did not satisfy the House of Assembly, and it resolved that the system which required bonds to be taken for the payment of one shilling a ton on all pine timber manufactured in the province, was a measure highly injurious to its trade, and in the opinion of the House was not contemplated by the instructions of His Majesty's ministers. These instructions, the House of Assembly thought, were only intended to prevent the destruction of pine trees fit for naval purposes, which object might have been carried into effect without injury to those employed in the manufacturing and shipping of timber.

General Smyth was exceedingly annoyed at this resolution, and he gave vent to his indignation in a message to the House, in which he expressed his surprise and concern that it should have been passed. He viewed it as "animadverting in terms of strong reprobation upon the conduct of His Majesty's executive government in this province," and indeed it seemed to bear that construction. But he was willing to regard it as having been passed without mature consideration, and he expressed the hope that the House would cause the resolution to be rescinded as it related to "a business belonging exclusively to the executive department, of which the House cannot be in possession of evidence to establish the facts necessary to found any correct judgment or opinion."

Governor Smyth may have thought that he had enough friends in the House to bring about the rescinding of the obnoxious resolution,, and on the same day that his message was received it was considered, with the speaker in the chair. Then the Governor had an opportunity of learning how many friends he had in the House. Among the members for St. John was Stephen Humbert, whose chief claim to distinction is that in 1818 he was expelled from the House for publishing an article in the City Gazette which was resolved by the Assembly to be "highly indecorous and unbecoming and a breach of the privileges of this House." Mr. Humbert's conduct in this affair did not show him to be a man of high spirit; but having been re-elected he now came forward as a supporter of the Governor. He asked the House to adopt a resolution to the effect that the payment of one shilling duty on pine timber, was not necessarily within the consideration of the House of Assembly, and that any resolve of the House on the said system, may be deemed an improper interference with His Majesty's prerogative. This extraordinary resolution had just four supporters, Mr. Allen of York, the two Sunbury members Messrs. Miles and Wilmot, and the mover, while nineteen voted against it. After voting down Mr. Humbert's motion, the House adjourned without dealing further with the Governor's message. General Smyth was very angry at his failure to induce the House to stultify itself, and he was determined that he would be subjected to no further criticism from that quarter. On the following morning immedi-

ately after prayers a message was received from the Governor requiring the attendance of the Assembly immediately, at Government House. There His Excellency, after giving his assent to a number of bills, brought the session and the existence of the House to a close in an angry speech, telling the members that he had noticed with great concern their persistence in a measure, to which their attention had been very recently called, which conduct he could not suffer to pass unnoticed consistent with the duty he owed to his Sovereign. He concluded by saying that the only mode which was now left him was to dissolve the General Assembly. Thus General Smyth resorted to the same tactics which have been followed by every tyrannical governor, against the Assembly that would not obey his orders. Before resorting to this expedient he took the advice of his Council who unanimously advised a dissolution. He gained no advantage whatever by this childish act, for the new House was quite as hostile to his timber tax as the old one, no less than fifteen of the nineteen who voted against Humbert's resolution being returned. In this case the opposition was the stronger because it was not founded upon any principle, but on individual interest. Many members might not be able to fully appreciate the strength of the principle involved that a tax should not be imposed on the people of the province without the consent of their representatives, but all could realize the injury that was sustained by the taking of so much money out of the pockets of those engaged in the timber trade and giving it to a few wealthy and

arrogant officials, in the shape of fees. Governor Smyth was engaged in a contest in which he was bound to fail in the end, for in a matter which touched their own pockets the stoutest upholders of the royal prerogative were not to be relied on to vote against their own interests.

The House of Assembly that was elected during the summer of 1819, differed very little from its predecessor, there not being more than four or five changes in the representatives, none of which were due to differences which had arisen between the Governor and the members of the former House. The only man of prominence who was missing when the House met was Robert Pagan, who had been one of the representatives of Charlotte continuously for thirty-three years, ever since the foundation of the Province. Mr. Pagan's age and growing infirmities prevented him from again offering and he died two years later, universally regretted. The county of Charlotte has never had a more honest and useful representative. The Legislature met on the 3rd February, 1820, and Governor Smyth treated the members to a very long speech full of loyalty, in which he dealt not only with the affairs of the province, but with matters on the other side of the Atlantic with which the people of New Brunswick had little concern. He expressed his anxiety and regret that "a spirit utterly hostile to our excellent constitution, and subversive of all order in society, has so fully manifested itself in various parts of Great Britain," and he intimated his desire that the Legislature would send a loyal address to the

Prince Regent on the subject. Here we have a means of measuring the character of General Smyth and the fact that he was able to induce the House of Assembly to join in such an address may help us to an understanding of the difficulties which reformers in New Brunswick had to face. The spirit of which General Smyth complained, was the first wave of that reform movement which has since utterly changed the representative system of Great Britain and swept away for ever a thousand ancient abuses. The whole country was agitated by the recollection of the Peterloo Massacre at which peaceable citizens, assembled for a lawful purpose had been ridden down and slaughtered by a body of cavalry, many women being among the sufferers. Then followed the passing of the infamous six acts, which were introduced and carried in the House of Commons by Lord Castlereagh, whose name still stands for all that is vile and tyrannical and who was so hated that when he cut his own throat the whole country rejoiced. The six acts were designed to restrict the freedom of the press, to impose heavier penalties on persons criticizing the actions of the Government and to prevent public meetings for the consideration of grievances in Church and State. This was the kind of legislation which the House of Assembly of New Brunswick was asked to approve, and which it did approve by its address to the Prince Regent. The only excuse that can be urged for the members is that they did not fully understand the questions on which they undertook to pronounce an opinion. Had they done so, if

they had the feelings of men, they would surely have extended their sympathy to those persons in England who were seeking to bring about a better system of representation and the reform of the constitution.

The remaining portion of Governor's speech dealt with provincial matters, and made a number of recommendations. He congratulated the Legislature on the general prosperity of the Province and the increase in the revenue. He recommended the encouragement of agriculture, the further improvement of the great roads, the establishment of better means of communication with Canada, and a permanent provision for the Judges going on circuit. These were all matters worthy of attention, and no objection could be taken to the Governor's recommendations. But there were causes at work which were not favorable to a good understanding between the Assembly and the Council, and probably no New Brunswick governor was ever so much under the influence of that body as General Smyth. He made their quarrels his own, and a great part of the unpopularity which he encountered was due to that cause. The Council still continued to meet with closed doors, but at the session of 1820, a motion, made by Judge Bliss, that a member might admit strangers to hear the debates of the Council was voted down. In the same manner a motion of the Attorney General for the printing of the Journals of the Council was indefinitely postponed. It was not until 1831 that any of Journals of the Council were printed, and strangers were not admitted to hear the debates of that body until 1834. Thus

the people of New Brunswick found themselves under the legislative control of a House that was wholly irresponsible, that met in secret, and that did not deign to give any reasons for its actions.

The old standing quarrel in regard to the payment of members broke out afresh in 1820. The appropriation bill sent up by the Assembly, contained a grant of twenty shillings a day to members of the House for their attendance, the same sum that had been given by the act passed in 1818. When the bill reached the Council it was, on motion of the Attorney General, resolved that the granting of remuneration to the members of the House of Assembly at so high a rate as twenty shillings a day is "a lavish and improvident grant." Immediately afterwards on motion of Judge Chipman, the further consideration of the appropriation bill was postponed for six months. There seems to have been no division on this motion, but on the following day Judge Bliss endeavoured to have it rescinded, and the further consideration of the bill resumed, but he was defeated by a vote of five to three. The House of Assembly, nothing daunted by the attitude of the Council, resolved that they were the sole judges of their own rights in the appropriation of money for the public service, and that they could see no reason why a grant of twenty shillings a day should be deemed lavish and improvident when a similar one met with the concurrence and approbation of the Council in 1818. A day or two later the House proceeded to vote the grants contained in the rejected appropriation bill over again, and sent them up to the Council for

concurrence, the very first item being twenty shillings a day for the payment of members of the Assembly. Judge Bliss now moved to rescind the resolution, declaring the payment of twenty shillings a day to members a lavish and improvident grant, but his motion was lost by a vote of five to four. Immediately afterwards by a vote of six to three, the payment of twenty shillings a day to members was agreed to, so that the Council stood in the ridiculous position of voting for a grant which it had solemnly declared to be "lavish and improvident." The three who voted against the grant were Judge Chipman, the Attorney General, and Mr. Street, and they thought it necessary to enter a protest on the journals. Mr. Street, while a member of the House of Assembly, had always voted for the payment of members, so that his action in this matter shows that making him a member of the Council had wrought a wonderful change in his opinions. But his is not a solitary instance of a man's views on public questions being radically altered by a change in his circumstances and surroundings. When General Smyth was proroguing the Legislature he did not fail to remind them that the appropriation bill contained an item which the Council had declared to be "lavish and improvident." He might with more propriety have referred to the most important piece of legislation of the session, the act for incorporating the Bank of New Brunswick, the first financial institution established in the Province. But this measure, so important and necessary, attracted less attention at the time than the petty squabble over the payment of members.

CHAPTER XXIII.

KING George III. died on the morning of the 29th January, 1820, after a nominal reign of sixty years, during the last ten years of which he had been insane, and the functions of the monarchy were carried on by his oldest son, George, Prince of Wales, under the title of Prince Regent. The legislature had been prorogued on the 29th March, and the news of the death of the King did not reach Fredericton until the 4th April, so that it was too late for that body to send an address of condolence to the new King on the loss of his affectionate parent. But this business was not neglected, in 1821, when the legislature again met, and at that time a joint address of both houses was sent to George IV. belauding his predecessor as the best of Kings, universally beloved by his people, who regarded themselves as his dutiful children. The new King was told seriously and not in sarcasm, that his wisdom and firmness, while acting as the representative of his royal father, had inspired conviction in every breast that he was worthy to be the successor of such a sovereign. There was more truth in this fulsome address than its framers intended, for it was eminently fitting that a stupid and obstinate tyrant of narrow intellect, should be succeeded by an easy going voluptuary with all the despotic instincts and prejudices of his father, but

without sufficient force of character to oppose his will to the reforming spirit of the age.

Under the law as it then stood, the demise of the Crown necessitated the dissolution of the legislature although this, the seventh General Assembly of the province, had only sat one session. The House of Assembly was therefore dissolved on the 15th May, and the election took place in June. There were contests in nearly every constituency, and the excitement at the polls was considerable, as was always the case when there was open voting, but none of the leading men of the House was defeated. Some fresh blood was also introduced, among the new men being Ward Chipman, Jr., who afterwards became Chief Justice of the Province, and who followed closely in the footsteps of his father. But the spirit of the Assembly was the same as that of its predecessor, and while its members may not have had a very firm grip of correct constitutional principles, they had no notion of subordinating their own views to those of the Governor and his Council. As they had a majority of the people with them their steady persistence was certain to win in the end, however strong the opposition to them may have appeared. For it must be remembered that the contest which was going on for reform in New Brunswick, was only one of the many that was vexing the fossils of the Colonial Office. The Canadian Provinces and Nova Scotia were also demanding reforms and the pressure of all being exercised in the same direction, in the course of time the barriers yielded and the old order of things was swept away.

The year 1820 was distinguished by a great revival of interest in agriculture and colonization. As the province had originally been settled mainly by disbanded soldiers, and by men, most of whom had no practical knowledge of agriculture, a very bad system of farming had been followed. Anyone with sufficient strength and skill with the axe could clear a field in the forest, burn off the trees, and sow it with grain, and the virgin soil always yielded a bountiful harvest. But when the stumps rotted out and the land became fit for the plough, a different system of agriculture was necessary, and this improved system the soldier farmer did not understand. He could not be induced to believe in the good effects of a proper rotation of crops, or the keeping of improved stock. Discouraged by the failure of his land to yield as abundantly as in former years, he was induced to turn his attention to other occupations, and to regard his farm as merely a secondary consideration. The lumber trade offered tempting opportunities for making a little ready money, and the farm was neglected for the forest which sometimes brought those who sought its prosperity, and sometimes ruin. The backward condition of agriculture in the Province attracted the attention of all thoughtful men and the arrival of large numbers of emigrants from Great Britain, many of them extremely destitute, appealed to the philanthropic feeling of those who were prosperous. Emigrant Aid and Agricultural Societies were formed all over the province with the double object of improving agriculture and assisting the poor emigrants to settle on their forest farms. The New

Brunswick Central Society for promoting the Rural Economy of the province was organized in March, at Fredericton. Governor Smyth became its president, and among its office bearers were two of the judges of the Supreme Court and two other members of the Council, besides members of the House of Assembly. Emigrant Societies for the purpose of relieving the distress of the new arrivals in the Province had already been formed and were doing good work. The Cardigan settlement in York County, was a type of the new communities that were founded about this time by these Societies with the aid of the government. The report of the Society that took this settlement under its care, shows that between August, 1819, and February, 1820, the sum of £200 had been collected by the Society, and most of it expended. As a result of this outlay twenty-seven families numbering nearly one hundred and fifty souls had been placed on lands, where prior to that time not a tree had been felled. Thirty lots had been surveyed, on most of which preparations for building and putting in a spring crop had been made, fifteen houses were nearly completed, and nine families were then residing in the settlement. For six months upwards of one hundred persons had been supplied with food; they had also been supplied with tools and materials and men had been hired to instruct and assist them in building their houses. Something had also been accomplished in the way of making a road, and seed was being collected for the settlers, so that they might be able to put in a crop in the spring. With such a record of good works, the Emigrant Society

had a right to appeal for aid to the Legislature, and to charitable individuals, and they did not appeal in vain. A sufficient amount of money, both public and private, was furnished, to enable the Society to continue its good work, and to place the Cardigan settlement on a satisfactory footing. Yet in spite of the liberal assistance afforded them by the people of the Province the Cardigan settlers suffered great hardships and even at a distance of more than eighty years, it is impossible to read without emotion, how in December 1820, one of them, a young girl, perished, while on the way to the Cardigan settlement from "excessive fatigue, want of nourishment and the inclemency of the weather," for so a coroner's jury found.

During the thirty-five years that the province had possessed a separate government, a considerable change had taken place in the position of the Council towards the Governor. Governor Carleton while in the province enjoyed an authority which none of his immediate successors was able to command. The Council was quite subservient to him and a great many things were done without even the pretence of consulting them. The members of that body felt that they owed their positions to his favor and they were not inclined to oppose his wishes. When he went to England in 1803, the Presidency of the Province fell to one of themselves and the Council acquired an importance which it had not previously attained. The President constantly asked and was guided by its advice. When the change in the regulations took place which placed the Presidency in the hands of

the Commander of the Forces, the influence of the Council was increased rather than diminished, for these military men knew nothing whatever about the Province or its needs, and had necessarily to resort to the Council for advice. This was especially the case with General Smyth, who did nothing while President without consulting with the Council and, when he became Lieutenant Governor continued the same practice. This fact is important in considering his career as Governor for it makes the Council sharers in his arbitrary methods, and to some extent relieves him from the odium which attaches to his administration.

The Legislature met on the 30th January, 1821, and Mr. Botsford was again elected Speaker. The Governor's speech referred to the bountiful harvest, the general prosperity of the Province and the largeness of the revenue. Some changes were recommended in the Militia law and the attention of the members of the Assembly was called to his speech at the close of the last session, as the most delicate mode of communicating his sentiments in regard to what he termed "a very material point of appropriation." This, of course, was the amount to be paid to members which the Council had declared to be "a lavish and improvident grant." This matter was disposed of without much friction, and, instead of the sum of twenty shillings a day being given to members, a bill which passed both houses and became law, provided that they should receive forty pounds for the session. This was a little less than twenty shillings a day, for the sessions generally lasted more than forty days but

the difference was not very considerable and the principle was the same. The only members of the Council who voted against this bill were Judge Bliss and Attorney General Wetmore.

The legislation of the session was not important, most of the acts passed being of a local character. Perhaps the only one worthy of particular mention is the act establishing as public roads all roads for which public money had been or should hereafter be granted. This was a very necessary piece of legislation, for grants of money had been made to many roads of which no record had been kept and which were liable to be shut up and claimed as private property. A bill to authorize all ministers of the gospel licensed to preach to solemnize marriage was passed in the Assembly, but rejected in the Council without even being considered. A committee of the Assembly was appointed to ascertain what sums of money that had been granted remained unpaid, and they found it to amount to no less a sum than £23,732, which exceeded the balance remaining in the public chest by £121, so that there were no disposable funds in the treasury. Nevertheless the House went on making appropriations as usual, trusting to the incoming revenue to meet the bills. One of the causes of the want of cash in the treasury, was the custom of giving bonds for the payment of duties instead of requiring them to be paid in cash as at present. The treasury contained large quantities of these bonds representing considerable sums, but payments were generally in arrear and they were frequently difficult to collect, even with the assistance of the Attorney General.

The House of Assembly presented an address to the Governor, expressing the anxiety of the people of the Province with regard to the timber license bonds, and asking if he had received any further instructions with regard to them. His reply was that he had received none, but in answer to another address, asking him to take steps to have the timber bonds cancelled, he informed the House of Assembly that, in consequence of the embarrassed state of the timber trade, he would recommend to the favorable consideration of His Majesty's ministers the cancellation of the bonds already taken. In 1820 the Imperial Parliament had placed a duty of ten shillings a load on timber from British North America, which was less than one fifth the amount of duty on foreign timber, but this impost aroused great discontent, and a joint address of the Council and Assembly was forwarded to Parliament praying, for its removal.

A return of the Trade of the Province which was called for by the House, showed that it had grown to large dimensions. The number of ships that had entered its ports during the year 1820, was 1,156, exclusive of coasters, with a tonnage of 226,688, an average of rather less than 200 tons for each vessel. The clearances were 1,183 tons of timber; 20,970,000 feet of boards and plank; 8,000 masts and spars; 49,063 quintals of dry fish; 30,627 tons of gypsum; 6,243 barrels of herrings, and many other articles. An immense trade was done in rum, of which 949,260 gallons were imported, and 475,837 exported duringthe year. It is to be hoped that the people of the Province did

not consume the whole of the balance of 473,423 gallons that remained in it, which would amount to about seven gallons a head for each man, woman, and child in the province. There are no means of distinguishing the exports at the several ports, for under the existing custom house arrangements, the whole Province was one port, but at this time the exports of timber at Miramichi were almost if not quite equal to those of St. John. The imports at Miramichi were much smaller than at St. John because the latter was doing a large trade with Nova Scotia and was the port of entry for the goods used by the whole of that portion of Nova Scotia which borders on the Bay of Fundy. This has continued to be the position of St. John to a considerable extent ever since. The merchants of St. John have always had the most intimate relations with the Bay of Fundy ports of Nova Scotia trade. As early as 1784 two packets began to ply regularly between Digby and St. John and received a small annual subsidy for this work. In 1821 the legislature granted £150 for this purpose, and a similar sum was given by Nova Scotia. But the business done by the regular packets was small compared to that of the numerous small coasters which came to St. John, from all the Bay ports bringing in produce and carrying back with them flour, molasses and goods of all kinds in exchange. By means of the system of drawbacks, St. John was able to import goods for these traders to as great advantage as if it had been a port of Nova Scotia. The only impediment to the growth of this business was one that was common to all the ports alike, the

excessive fees charged on coasting vessels by the Custom House authorities.

Among the old world institutions that had been imported into America was the practice of duelling. In remote ages when the laws were too weak or their administration too uncertain to protect the subject, duelling may have had some merit, but in a country under the domain of law it was a wicked absurdity. Yet duelling prevailed in New Brunswick, among those persons who called themselves gentlemen, up to a period within the memory of men still living. The annals of the Province record many duels, but few of them, fortunately, were attended with fatal results. It was thought that wounded honor might be as effectually vindicated by two gentlemen going out together, and firing at each other at twelve paces without effect, as if one of them was killed. Indeed it is difficult to believe that, in the majority of cases, the motive for fighting a duel was anything more than a false sense of honor in complying with a custom which had become barbarous, and was not recognized by law, A man who shot another in a duel had no legal exemption from the penalties of an ordinary murder, so that he had every motive not to kill his antagonist. Yet where two men went out to fight a duel, and after an exchange of shots returned unscathed, they were in danger of being exposed to ridicule.

In 1821, a duel took place which has obtained a sad prominence in consequence of the social position of the principals and its fatal termination. Both men who took part in it were members of the bar and therefore acquainted with the laws of the

country; one of them, George L. Wetmore, was a son of the Attorney General and Clerk of the House of Assembly; the other George F. Street, was a son of Samuel Denny Street, a member of the Council. Their quarrel arose out of the issuing of a writ and high words took place which led to a challenge. They met on Maryland Hill in the morning of the 2nd October, and after exchanging two shots, Wetmore fell mortally wounded. Street and his second, Lieut. Davies, and J. F. Winslow, Wetmore's second, fled to Robbinston, Me., and there remained for several months. Street and Davies finally gave themselves up and in February, were tried for murder before Chief Justice Saunders and acquitted. The charge of the Chief Justice to the jury has been preserved, and, if it is to be taken as a specimen of the legal knowledge of the Judges of that day, our bench in the year 1821 could not have stood very high. It had the effect of preventing a verdict of guilty being found, so that it fulfilled its object. Such a tragedy followed by such consequences, ought to have had a great effect in preventing duels, but challenges were given and accepted for twenty years after that time, although not many of those so called affairs of honor caused any shedding of blood.

The Legislature met on the 6th February, 1822, and did not prorogue until the 23rd March. The Governor's speech contained very little that was important except congratulations on the growth and general prosperity of the Province. He suggested further legislation for the relief of confined debtors, there being no provision for the

the support of debtors who were confined for sums exceeding £200. The Legislature acted on the Governor's suggestion, and amended the law in that as well as in some other respects. Thirty-five bills were passed during the session, but only two or three that were of much general interest. One act provided for the maintenance of an armed cutter for the protection of the revenue, and another gave bounties to those inhabitants of the Province who were engaged in the cod and scale fisheries,

A new highway act was passed which defined and described those highways that were to be regarded as great roads of communication. They were nine in number and comprised the following roads: From Fredericton to Westmorland by way of the Head of Belleisle; from St. John to the Head of Belleisle, which gave that city a means of communication with Fredericton; from Fredericton to St. Andrews; from Fredericton to the Canada line; from Fredericton to the River Restigouche; from St. John to St. Andrews; from St. John to Westmorland; from the Bend of the Petitcodiac to Shediac; and from Dorchester to Chatham. The road from St. John to Westmorland joined the road from Fredericton to Westmorland at Norton. None of these roads were in good condition for carriages.

The road from Fredericton to St. John was extremely circuitous being about 90 miles in length and it involved the crossing of the St. John, the Jemseg, the Washademoak and the Kennebeccasis by means of ferries. It was impossible that this could ever be a satisfactory means of communication between the capital and the chief commercial city

of the province, and many efforts had been made to find a better road. Finally it was decided that a practicable route could be found on the west side of the River and the Nerepis road, which until the era of railways was the shortest and best route between St. John and Fredericton, was laid out. This work began as early as 1820, and a number of settlers were placed on it the following year. Money was granted and the work of road-making carried on by General Coffin, who must be regarded as the originator of this important road. The Nerepis Road was only 65 miles in length so that it was about 25 miles shorter than the road by the Head of Belleisle and when completed it had the further advantage of having no ferries except at the City of St. John. The great advantages of this road were recognized by the Governor and by a few other persons, but as it ran mainly through a wilderness its claims were not considered so good as those of the road on the east side of the river which ran through a settled country, and the work of completing it proceeded but slowly until Sir Howard Douglas became governor.

The attention of the House of Assembly was largely directed to the various phases of the timber question, the reserves, the bonds given for the payment of a shilling a ton on all the timber cut under license, and other matters connected with this great staple of the country. With regard to the reserves, a despatch was received from Lord Bathurst declining to open them to settlers. The Governor refused to comply with the request of the House for a return of the total amount of the bonds

taken for the timber tax, and when he was asked by the House to transmit its address against the timber bonds to His Majesty's ministers, he said he would do so but would accompany it with observations of his own. In other words he would make such representations on the subject to the Home government as would prevent the wishes of the House being complied with. His excuse for taking this course was that the address had not been concurred in by the Council and was therefore irregular.

During this session despatches from Lord Bathurst were laid before the Legislature, disallowing the acts of 1818 for reimbursing the members of the Council and for the payment of members of the Assembly. As the former act only had been reserved, the latter being assented to, it is difficult to understand on what ground it came to be disallowed. This act had expired, and another of the same character had been passed and assented to, so that the position of the question of the payment of members had become somewhat complicated. The Assembly solved the question by placing the grants to the Speaker and members in the general appropriation bill. This produced a message from the Governor, asking, that in future, grants that were entirely different in their character be not included in one bill. The House in reply unanimously resolved that "it is the sole and inherent right of the House of Assembly, not only to raise the public money, but to direct and limit the ends and services to which it is to be applied. That in the exercise of this right, the House cannot

be warranted in departing from the usage and mode of proceeding hitherto pursued by the former Houses of Assembly of this province." This called forth a counter resolution of the Council declaring that the system of joining together in the same bill, items that have not been recommended by the Governor with those that have, was dangerous to the privileges of the Council and the prerogative of the Crown, and resolving that the Council would not thereafter pass any bill which contained items different in their nature and not recommended. This resolution was opposed by Judge Bliss and Mr. Street, but four members of the Council voted for it. The Governor assented to the appropriation bill, but in his speech, when proroging the Legislature, he said that although he gave his assent to the bill, it had not his unqualified approbation. He concluded his speech by saying that he would not have felt justified in assenting to the bill without a determination to avail himself of the control which he claimed to possess of suspending the issue of warrants for such services as he could not approve. Here the Governor claimed to suspend the operation of the laws which had been passed by both branches of the Legislature and to which he had himself given his assent. He apparently forgot that it was for conduct precisely similar to his own that one English King had lost his head and another his throne.

While the Legislature was in session an election took place to fill a vacancy in the representation of the county of York, caused by the death of Stair Agnew, who had been a member for that county

for about thirty years. Four candidates offered for the vacant seat, but after the poll had been kept open four days, three of them retired in consequence of the refusal of the sheriff, E. W. Miller, to hold the poll anywhere but in the town of Fredericton. As the northern end of the County was one hundred and fifty miles from Fredericton, it was rather hard on the voters to compel them to make a journey that would occupy a fortnight, going and returning, to deposit their votes. The election law contemplated the removal of the poll from place to place, and this action of the sheriff was in direct violation of its spirit, yet he does not appear to have been punished, or even censured, for his offence against the rights of the people of York.

The most important occurrence of the year, so far as the commercial interests of the Province were concerned, was the breaking down of the barriers which had put a stop to the legitimate trade between the British North American Colonies and the United States. Laws to effect that object were passed by Parliament and by Congress, and in September, President Munroe issued a proclamation opening United States ports to British vessels from the colonies. At the same time important changes were made in the Customs establishment of the Province, by the separation of St. Andrews from St. John, of which it had been up to that time merely an outbay. St. Andrews now became a separate port, and both St. John and St. Andrews were free ports.

Under the new Imperial act a new scale of duties was established, but it was provided that the net sums produced by these duties should be paid to the

Receiver General of the Province, to be dealt with in the same manner by the legislature as the revenue collected under provincial acts. The first payment under this provision into the Provincial Treasury, was made by the Collector of Customs at St. John in November, 1822. It was the beginning of a new era in the relations of the Colonies to the Mother Country. Yet this Imperial statute, although it gave the revenue collected at the Custom house to the Province, was clearly a violation of the principle that there should be no taxation without representation.

During the summer the Province was visited by Sir James Kemp, Lieutenant Governor of Nova Scotia. Governor Smyth met him at St. Andrews where both governors were duly addressed by the public bodies and entertained. From thence they proceeded to Fredericton, and Governor Smyth accompanied Sir James Kemp on his return to St. John. At the latter place they visited the new steam saw mill of Messrs. Otty and Crookshank, the first of that kind erected in the Province, and which was then started for the first time.

This year the College, which up to that time had been merely a high school, commenced its career as a college by the admission of four students who had previously passed a matriculation examination before the President of the College and the Rector of the Parish, who were the examiners designated by the statutes. This was the real beginning of an institution, which, if it had been inaugurated under more liberal conditions, would never have had a rival in the Province, and would have attained by

this time a three-fold greater degree of prosperity than it enjoys at present.

The legislative session of 1823, which began on the 5th February, was a notable one in many respects. New conditions were arising in connexion with the affairs of the Province, which had to be met by appropriate legislation, and public opinion was becoming an important factor in influencing the work of the legislature. The Imperial Act which gave the proceeds of the Customs duties to the province and made St. John and St. Andrews free ports, threatened to work injury to business in another way by hampering the export trade. The Imperial Act imposed a duty of five shillings on every barrel of flour imported, and also on a number of other articles which the merchants of St. John had been in the habit of importing and exporting. An act of the legislature was passed at this session, giving the exporter a bounty almost equal to the duty on flour, rice and other articles subject to parliamentary duties. This act expired in 1827 and was now renewed, the Imperial act which came into operation in 1826, under which bonded warehouses were established, rendering it unnecessary.

The old law of imprisonment for debt, as it existed in England, with all its harshness, was in force in this province, but efforts had been made from time to time to mitigate it. An honest debtor who had no property was not placed in a very favorable position for paying his debts when he was immured in gaol like a criminal, and his health was liable to be greatly impaired by his confine-

ment. At the session of 1822 an act was passed requiring the sessions of each county to provide gaol yards, in which prisoners for debt might walk, on giving bonds that they would not escape, and in 1823 these gaol limits were extended to a distance of eight rods from the gaol in every direction. This change in the law enabled a prisoner for debt to live outside the gaol altogether, and, by successive enactments, the gaol limits were farther extended, until they embraced an area of three miles from the gaol in every direction.

The desire of the people of the province for additional educational facilties was expressed by the passing of three acts for that object. One of these was an amendment to the Grammar School Act, another was an act for the establishment of parish schools while the third related to the college. This act authorized the Governor and Trustees of the College to surrender their charter, on condition that His Majesty would be pleased to grant another charter in its place. It also provided for a provincial grant of £600 annually in addition to the £250 already granted, and the further sum of £1,500, to be applied to the erection of a suitable college building.

The number of immigrants that had arrived in the Province had been very large, and as many of them were in a very indigent condition, the local authorities had much difficulty in providing for them. The extent of this immigration may be judged from the fact that in the course of four days in July, 1822, there arrived in St. John 897 of these unfortunate people. The local authorities

thought that the Province should reimburse them for the money they had expended in relieving the wants of the immigrants, and among the appropriations of 1823, were grants for upwards of one thousand pounds to the overseers of the poor of St. John, Portland, Fredericton, St. Andrews and other places on this account. The Council objected to these appropriations but the Assembly insisted on them and they were passed, although not without a protest.

Governor Smyth sent down a message to the Assembly, accompanied by a despatch from Earl Bathurst on the subject of the proper mode of preparing the appropriation bills. That great man told the Governor, in language that might be variously interpreted that:—"In the event of the House of Assembly renewing in the ensuing session the objectionable system of uniting in one bill, matters which have been recommended with those which are objectionable, and which have no relation to each other, I am to desire that you will take care to have it well understood that you have received His Majesty's instructions not to allow for the future so informal and unconstitutional a proceeding." The Committee on privileges took this message into consideration, and also the resolution of the Council on the same subject, and prepared a long report justifying the action of the House and declaring that they could see no good cause for it departing from the usages and modes of proceeding hitherto pursued by the former House of Assembly of this Province. This report was adopted by the House, and it is quite possible

that Governor Smyth might have sought to vindicate his position by refusing to assent to the appropriation bill. But on the 17th March, he was seized with an illness which immediately prostrated him, and which soon became so serious that it was seen his life was in grave danger. The petty quarrel with the Assembly over an item in the appropriation bill was nothing to a man whose days were numbered and who was fast approaching the awful goal which all must reach. The Governor was dying, and realizing that fact, the business of the session was rushed through with all possible despatch. It was a race with death and on the morning of the 27th March, both Houses met at 7 o'clock. A commission under the great seal signed by the Lieutenant Governor was read authorizing Chief Justice Saunders and Judges Ward Chipman and Bliss to give the Governor's assent to the bills and prorogue the House of Assembly. This was done immediately and at 9 o'clock the announcement came that Governor Smyth was dead.








SUPREME COURT OF NEW BRUNSWICK.

Hon. Jeremiah Barry
Hon. E. McLeod
Hon. P. A. Landry
Hon. H. A. McKeown
Hon. F. E. Barker, C. J.
Hon. A. S. White

CHAPTER XXIV.

THE death of Lieutenant Governor Smyth placed the administration of the Government in the hands of the senior member of the Council, the Royal instructions which made the senior military officer administrator having been revoked. The senior member of the Council was the Honorable George Leonard, who resided at Sussex. Mr. Leonard was a very aged man and very infirm, so that he had not attended a meeting of the Council for ten years. A messenger was despatched to him by the Council, requiring him to repair immediately to Fredericton and assume the administration of the Government, and in case he was prevented from doing so, asking him to signify his reasons in writing so that a similar notice might be sent to the Hon. Christopher Billopp, who was the next in point of seniority. Mr. Leonard wrote the Council to say that his age and infirmities rendered it impossible for him to take upon himself the administration of the Government. Col. Billopp, who was then in his 87th year, and resided in St. John, informed the Council that he was ready to assume the administration and asked them to meet in St. John as early as possible. On these letters being received, the Council resolved that the person to administer to the Government should be

sworn in at Fredericton, and that the next member of the Council in point of seniority, Judge Chipman, should be made administrator. The Council had no right to require the administrator to go to Fredericton to be sworn in and there was no reason why such a course was necessary. The House had been prorogued, and the business of the session was ended, and there was therefore nothing that required the attendance of the administrator at the seat of Government. Col. Billopp issued a proclamation as administrator, and the Council passed a resolution forbidding its publication. It was a contest between unscrupulous men who had power in their hands, and a poor old man who had nothing but right on his side. Col. Billopp appealed to the Colonial office, and despatches were afterwards received from the home authorities condemning the conduct of the Council and justifying his claims to the office of administrator. These despatches were suppressed by the Council, and no mention of them is to be found on its files except incidentally. The illegal conduct of Chipman, and those who acted with him in this case requires no comment.

Ward Chipman continued President long enough to meet the Legislature on the 21st of January, 1824. Almost the first resolution passed by the House of Assembly was one requiring him to direct the Receiver General of His Majesty's casual revenue to lay before the House an account of the money paid into the office since February, 1822. This request the President refused, on the ground that the casual revenue was under the control of the home govern-

ment. The Receiver of the casual revenue was then the Hon. George Shore, a member of the Council, a son-in-law to Judge Saunders. The Hon. Anthony Lockwood, who had been Surveyor General since 1819, became insane in the Spring of 1823, and had to be suspended from office. In filling the vacancy the Council were careful to see that their family arrangements were not interfered with, but Mr. Shore was not allowed to remain Surveyor General long, for in the early part of 1824, Thomas Baillie, an Englishman, was appointed to the office.

The Legislative work of the session of 1824 was not very important. An act was passed to provide for the safe keeping of lunatics, whom it might be dangerous to permit to go at large. No provision was made for the erection of a lunatic asylum, so that the act was of little benefit.

An act was passed for taking an account of the population of the Province. It is remarkable that although the Province had been in existence for forty years, there had been no general enumeration of its inhabitants, and all estimates were merely guesses. In the mean time there had been two censuses of Canada and one of Nova Scotia. The census taken under this act was simply an enumeration of the people, distinguishing the colored people from the whites, giving the number of males and females under and above the age of sixteen, and also the number of houses inhabited and uninhabited and the houses building. There was no attempt to enumerate the industries of the Province, or to take an account of its mills, churches and schools. The result showed that New Bruns-

wick in 1824 had 74,176 inhabitants, of whom 1513 were colored. The most populous county was Northumberland, which had 15,828 inhabitants. That county then comprised all the territory now included in the counties of Northumberland, Gloucester, Restigouche and Kent. The county of St. John, which came next, had 12,907 inhabitants, and the city of St. John 8,488. The parish of Portland, now included in the city of St. John, had 3,043 people, so that the population of the territory now comprised in the city was 11,531. York, which then included the present counties of Carleton, Victoria and Madawaska, had 10,972 inhabitants, of whom 1,849 were in the town and parish of Fredericton. Westmorland, which then included Albert, had 9,303 people; Charlotte had 9,267; Kings 7,930; Queens 4,741; and Sunbury 3,227.

In the middle of the work of the session, the President became suddenly ill, and died on the 10th February. This compelled both houses to adjourn until a new administrator could be sworn in. The Honorable George Leonard was again appealed to, and on his declining to act, the Council communicated with the Honorable Mr. Billopp. The latter replied that "without any abandonment of the principles and pretensions which actuated my conduct after the death of the late Lieutenant-Governor, and which have since received such ample and unequivocal sanction and support from His Majesty's secretary of State; yet in the awkward and unprecedented predicament wherein the public affairs are now involved, and with an earnest desire

to accommodate the despatch of the important business of the Legislature, already so long interrupted, I am disposed to waive my claims on the present occasion in favor of the next senior member of His Majesty's Council." Upon this the Honorable John Murray Bliss, one of the Judges of the Supreme Court, became administrator, and the Legislature resumed its business after an adjournment of thirteen days. The work of the Legislature was speedily finished without any friction between the Council and Assembly.

The administration of Judge Bliss did not last long, the home government having appointed Sir Howard Douglas, a distinguished officer, to the position of Governor of New Brunswick. The new Governor was a man of a very different type from either of his predecessors in that high office. He had seen service in various quarters of the world, and was gifted with a degree of intelligence and a liberality of mind, which made him one of the most popular governors the Province ever had. It was impossible that a man, constituted as he was, could fail to take an interest in this new and struggling province, and during the whole time that he administered his office he worked for it with the greatest zeal and frequently with the greatest success. Sir Howard Douglas arrived at Fredericton on the 30th August, 1824, and immediately set about the work of looking into the affairs of the province he was called upon to govern. During his term of office he visited every part of it, everywhere meeting with the most hearty reception and making himself acceptable to all classes by his

affable manners and kindly interest in affairs of the people. Instead of confining his attention to those persons in the province who claimed to be superior to their fellow men, he showed equal attention to all, and was accessible to anyone who had business to transact with him. He took a great interest in the militia and encouraged their crude efforts to become efficient defenders of their country. He was also greatly interested in the establishment of Savings Banks, and under his auspices Savings Banks were opened both in St. John and in Fredericton. Another matter to which he gave his attention was the regulating of the nisi prius sittings of the Supreme Court. Before this time the Judges had held circuits at such times as suited them, but now he had a new ordinance passed appointing regular sittings, two at St. John and Fredericton in the year, and once a year in each of the other counties.

The feature of Sir Howard Douglas' administration for which he will be best remembered is the establishment of the College at Fredericton. This matter early engaged his attention and he obtained a promise from the British Government of an endowment and a new charter. The latter was not obtained until December, 1827, owing to the opposition of the Ecclesiastical authorities in England and in this province. Mr. Fullom in his life of Sir Howard Douglas, states that the application for a charter for the College which would admit persons who did not belong to the church of England, was resisted by the Archbishop of Canterbury and by the Bishop of Nova Scotia. The latter opposed it not only on religious grounds,

but because he favored a rival scheme of his own which contemplated a college for the whole of British America in his own diocese. Sir Howard Douglas saw that there must be a compromise, and framed a charter opening the college to all, giving the control of it to the clergy of the Church of England. It took a great deal of persuasion to gain over the consent of the Archbishop and the Bishop of Nova Scotia to this plan, the result being a charter which was not acceptable to the majority of the people, and which condemned the college to thirty years of arrested development. By this charter the Bishop of the Diocese was made visitor of the college with all the power incident to that office. The President was required to be always a clergyman of the Church of England and the perpetual succession to that office was vested in the Archdeacon of the Province. The College Council was to consist of the Chancellor, who was the Lieutenant Governor, and the President, and seven other professors who were required to be members of the Church of England, who subscribed to the thirty-nine articles. If there were not a sufficient number of professors to fill up the College Council to the number of seven in addition to the Chancellor and President, graduates of the College who were members of the established church and who had subscribed to the thirty-nine articles, were made eligible. The Council had authority to make laws for the government of the College, subject to the approval of the visitor. It will thus be seen that the whole management of the College was in the hands of the

members of one church, although at that time probably two-thirds of the people of the Province belonged to other churches, Presbyterians, Methodists, Baptists, and Roman Catholics, all having numerous churches in the Province, and being engaged in spreading the Gospel with at least as much zeal as the clergymen of the Church of England. Nothing could be more unfortunate than these restrictions on the College charter, and it is not too much to say that if they had not existed, the University of New Brunswick would now be in a far different position from what it occupies today.

In 1825, the Legislature met on the first of February, and on that occasion Sir Howard Douglas delivered a long address, dealing with a great variety of topics of interest to the Province. He said that he found the affairs of the Province to be generally in a very prosperous condition, and he recommended the opening of new channels of trade and the improvement of commercial intercourse with the sister colonies. He expressed the opinion that the fisheries might be made much more productive, and that a trade in that article might be established with the new states of South America. He referred to the great increase in ship-building, but thought that the character of the vessels constructed might be greatly improved. He recommended giving greater attention to agriculture so that much money now sent abroad for the purchase of flour and other articles, might be kept at home. He commended the agricultural, emigrant and other societies which had been established in the Province, and which were exercising so beneficial

an influence in settling a large number of persons on farms. He advised greater care in making grants to the great roads, the money being largely wasted because it was spread over too great an area. The public services, he said, had been exposed to great inconvenience by the irregularities incident to the existing means of communication between Fredericton and St. John, and he recommended a plan for such communication with St. John by a post road, as might not be subject to those serious interruptions and dangers. He also referred to educational matters, and said that the time had arrived when they should entertain enlarged views on all subjects, so that the affairs of the province might be conducted upon fixed and solid principles. The session passed without any incident worthy of mention, and was closed by a speech from the Governor in which he highly complimented the members of both Houses for their wisdom, ability and loyalty. The only notable measures of the session were an act for the establishment of Savings Banks; an act giving bounties on fish caught and cured in the province, suitable to the Mediterranean markets; an act to incorporate the Charlotte County Bank; an act to incorporate the St. John Water Company, and an act to amend the great road act. The object of this last act was to provide for the completing of the road between Fredericton and St. John by way of the Nerepis.

During the summer and autumn of 1825, Sir Howard Douglas visited all the principal settlements in the province, both on the Gulf and on the

Bay of Fundy, and made himself familiar with their needs and desires. At nearly every place he visited there were the usual addresses and banquets in honor of the distinguished guest, at which the Governor had the opportunity of meeting the leading men of the province. On his return to Fredericton he had to face business of a more serious nature. On the 19th of September, Government House, which was his official residence, was totally destroyed by fire, so that the representative of His Majesty was without a home. Worse was still to follow. The season had been a remarkably dry one and forest fires prevailed all over the province. On the 7th of October a fire broke out in the town of Fredericton, which, before it could be checked, destroyed about eighty buildings and rendered a large number of people homeless and destitute. The fire which broke out in Fredericton was but the offshoot of a conflagration which was raging over a large area of the forest land of central New Brunswick. On the same day that Fredericton was destroyed, a fire began to menace the settlements on the Miramichi, which then consisted of four towns, two on each side of the river, and numerous hamlets and isolated farmhouses on the Miramichi and its branches. A great part of this territory was covered by a magnificent pine forest which gave the country the promise of boundless wealth, and which was then contributing nearly half of the exports of the province. Newcastle, which consisted of 260 houses and had nearly one thousand inhabitants, was almost totally destroyed, only twelve buildings remaining after the fire had swept past it.

Douglastown experienced a similar fate, and of seventy buildings, only six were left. Moorfields, a populous settlement near Douglastown, was a pile of ashes, and the whole cultivated portion of the parish of Ludlow was changed into a waste. Bartibog, Nappan, Black River, and several other surrounding settlements became involved in the general ruin. Fortunately, Chatham and Nelson, the two towns on the south side of the river, escaped the fury of the destroying element. But it was in the forest that the worst results of the conflagration were experienced. The settlers who lived on the branches of the great river, found themselves in danger of losing both their homes and their lives. It is estimated that the area over which this fire extended was nearly 6,000 square miles, or nearly one-fifth of the total land surface of the province. Anyone caught in the forest during the conflagration who could not reach the Miramichi, was doomed to death. Most of the farm houses between the Miramichi River and Fredericton, were given to the flames, and many of their inmates lost their lives. A careful estimate which was prepared after the fire, shows that 160 persons were either burnt to death, or drowned in their efforts to escape from the flames. Five hundred and ninety-five buildings were consumed, and eight hundred and seventy-five head of cattle were destroyed. The loss of property was estimated at £204,323, of which only £12,050 was insured, but this only represented the property in the possession of the victims of the fire. The greatest loss of all was the destruction of the vast forest

north and west of the Miramichi River, which had become a mine of wealth to the people of that settlement. The prosperity of the community was checked in a manner that was not only overwhelming, but irredeemable. The forest that had been burnt represented the growth of ages, and a century at least, it was thought, would be required to pass before it was again available for human needs. The only redeeming feature connected with the fire, was the opportunity it gave of showing the sympathy of the world with a suffering and impoverished people. The cry for help that went up from the Miramichi settlements, found a ready response, not only throughout tne Maritime Provinces, but in the Canadas, in Great Britain, the United States, and the settlements of New Brunswick which had escaped the fires. The city of St. John alone gave £4,300 in goods, beside money contributions. Altogether nearly £40,000 was collected and distributed for the relief of the sufferers. This work was done by a committee under the direction of the Lieutenant-Governor, who visited the Miramichi settlements almost before the ashes of the conflagration were cold. The winter was rapidly approaching, but the homeless were provided for. By the enterprise and energy of the people, towns superior to those that were destroyed speedily arose from the ashes of Newcastle and Douglastown. The prosperity of Miramichi was checked, but not destroyed, and that flourishing settlement, in the course of years, resumed its position as one of the greatest lumber exporting districts in the world. To show the importance to which Miramichi had

arisen prior to the great fire, it may be stated that the revenue collected there in the year 1824, was one-fourth of that obtained at the port of St. John. The tonnage of vessels that entered and cleared at Miramichi during the same year was just about equal to that of St. John, while the amount of ton timber exported from Miramichi. was 141,384 tons against 114,116 tons at St. John.

The Legislative session of 1826 opened on the 19th of January. Naturally the address of the Lieutenant Governor dealt largely with the Miramichi fire, and the measures that had been taken for the relief of the sufferers. He was able to congratulate the Legislature on the passage of an act by the Imperial Parliament, for the removal of restrictions on the colonial trade. He referred to the increasing demand for lumber, and the necessity of giving greater attention to agriculture. He directed the attention of both Houses to the project for a canal from the waters of the Bay of Fundy to the Gulf of St. Lawrence, at Bay Verte. This project engaged the attention of several generations of men, and was finally disposed of by the report of a commission, appointed by the Government of Canada, at the head of which was the Hon. William Young, made in 1874. It encountered great opposition from a portion of the people of Nova Scotia, and as it was viewed with indifference by the inhabitants of the Western Provinces, there was no chance of its success. Nevertheless it is by no means unlikely that at some future day the Bay Verte project will be revived and the work completed.

The principal acts passed in 1826, were for granting bounties on grain raised on new land ; to provide for the rebuilding of the Government House ; and for the division of the County of Northumberland into three counties. This vast county extended from the northern line of the county of Westmorland to the Bay Chaleur. Under this act the parishes of Carleton and Wellington and the territory to the westward of these parishes, was erected into the county of Kent, and the parishes of Saumarez and Beresford became the county of Gloucester. The remainder of the territory which had formed the original county, continued to be known as the county of Northumberland. Each of the new counties was allowed one member in the House of Assembly, while the county of Northumberland still continned to send two members as before. This was a very necessary piece of legislation. A similar bill for the division of the county of York into two counties, failed to pass the House of Assembly, although the inconvenience connected with continuing so large a piece of territory as a single county, must have been very apparent to everyone. The measure was favored by the members of the county who had the best means of knowing the inconvenience of the existing arrangement, but it was not until 1831, that the county of Carleton was set off from the original county of York.

The corner stone of the College building and of the new Government House, were both laid this year, and the people of Fredericton rejoiced in the progress of two structures which they believed

would add greatly to the attractions of their town. The Legislative building, which had been completed about ten years before, was not a structure which showed any architectural taste, or had even the merit of being convenient for the purpose for which it was designed; so that the erection of these two handsome stone structures formed a new era in the architectural history of the Province. They are both standing at this day, and notwithstanding the lapse of three quarters of a century, are still worthy of admiration.

The Bishop of Nova Scotia, the Right Reverend John Inglis, visited New Brunswick this year, to administer the rite of confirmation to the young persons in this portion of his diocese. His appointment had been made the year previous in succession to Bishop Stanser, who had to resign in consequence of ill health. Mr. Inglis, previous to his appointment, had been rector of St. Paul's Church, Halifax, with the Rev. Mr. Twining as his assistant. The congregation of St. Paul's desired the appointment of Mr. Twining as Rector, but Bishop Inglis, by a piece of management which reflects no credit on his character, contrived to disappoint the wishes of the people, and secured the appointment of the Rev. Robert Willis, who was rector of Trinity Church, St. John. Two-thirds of the congregation of St. Paul's Church left it in consequence of this piece of chicanery on the part of the Bishop, and most of them, including many influential persons, afterwards went over to the Baptist denomination, adding enormously to the strength of that communion and weakening, by so

much, the Church of England. While in Fredericton the Bishop was sworn in as a member of the Council of this Province and took his seat. This was the only instance in which a Bishop of Nova Scotia sat in the New Brunswick Council. When the diocese of Fredericton was separated from Nova Scotia the arrangement which made the Bishop of Nova Scotia a member of the Council no longer was in force so that no Bishop of New Brunswick has ever sat in the Council of this Province. The origin of the arrangement was no doubt a desire to imitate the British House of Lords which was constituted of Lords spiritual as well as Lords temporal. It cannot be said that the presence of the Lords spiritual in that body has ever added much to its value as a legislative chamber, especially in regard to questions involving necessary reforms.

The year 1825 had been one of great speculation in England, and prices had risen to an extraordinary height. The prosperity that was developed, was shared by the people of New Brunswick who were exporters of timber and ships, and who found a good market for all they could produce. But towards the autumn of 1823, the rapid rise in prices was checked, and a decline set in which did not cease until it had brought ruin to thousands, and absolute poverty to many. The failure of the great banking house of Pole & Co., in London, brought on a panic in the commercial world. This bank had relations with forty-four country bankers, all of whom were more or less involved with it. The crisis that ensued was the greatest that England had

known since the year 1793. The panic continued for ten days, and the Bank of England had its resources severely strained. The news of these commercial disasters only reached New Brunswick slowly, but by the beginning of April, it was known to the merchants of this province that nearly all their agents aud correspondents in England had failed. The price of pine timber went down to a merely nominal figure and ship property fell to a corresponding extent. The commercial distress that ensued affected people on both sides of the Atlantic, and it was not until the end of the summer that matters began to mend, and prices rose to a point something near the actual cost of production. The lesson thus learned was a severe one, and was referred to by the Lieutenant-Governor in his speech at the opening of the Legislative session of 1827. It showed that it was not safe for the Province to depend for its prosperity on the timber trade or on ship building alone, but that greater attention should be given to other industries which were less subject to violent fluctuations.

CHAPTER XXV.

DURING the session of 1827, the attention of the Legislature was directed to the large deductions that were made from the customs revenue by the Imperial Officers, who were charged with its collection. Mr. Simonds, from a committee appointed to take this matter into consideration, submitted a report in which it was shown that while £18,278 2s. 3½d. sterling had been collected during the year 1826, which was equal in the currency of the province to £20,309 11s. 5d., only £11,613 13s. 8d. had been paid in to the hands of the Treasurer, leaving unaccounted for, the sum of £8,695 17s. 8½d. The report recommended that the House take immediate steps to ascertain by what authority the collectors in this province were permitted to retain so large a proportion of the whole amount of duty collected by them. This was followed up by a series of resolutions ending with an address to the Lieutenant Governor to lay the resolutions before His Majesty. Sir Howard Douglas intimated to the House of Assembly that the proper method of approaching His Majesty on this subject was by way of address and the House adopted this suggestion. Their address contains in a brief form, a statement of the grievances which the House considered the province was suffering in consequence of the existing arrangements in regard to

the disposition of the moneys derived from Customs duties. They say that they cannot for a moment believe it was ever intended to take from the colonial legislature the right of appropriating the whole of the duty levied upon the people of the province. They had learned with extreme regret that the custom house officers had received instructions from the commissioners of customs to retain for their salaries a large portion of the duty collected by them. The address states that, of the twenty thousand pounds collected under acts of Parliament during the previous years by the officers of customs, but little more than half had gone into the provincial treasury, the balance having been retained by the officers for their salaries. The enormous disproportion of this scale of remuneration as compared with that of the provincial officers, was shown by the statement in the address that the provincial revenue of thirty thousand pounds was collected at an expense of about two thousand pounds. These Imperial duties which it cost so much to collect, could have been collected by the provincial officers of the revenue with little or no additional charge. The address closed by expressing the hope that His Majesty should grant the desired relief by making such reductions as were possible in the customs establishment, and by causing the whole of the revenue which might hereafter be collected in the province under the Imperial acts, to be placed at the disposal of the assembly.

In this address the members of the House were able to thank the Imperial authorities for the relief

which they had recently given to the coasting trade. For the first forty years of the existence of the Province, the customs authorities treated New Brunswick, Nova Scotia, Prince Edward Island and Cape Breton as separate countries, and charged as large fees on coasting vessels which traded between them as if they had been on foreign voyages. A vessel cleared at St. John for a port in Nova Scotia had to pay as high customs fees as if she was bound to Liverpool or the East Indies. The smallest class of coasters paid £2 2s. between St. John and Digby, an exaction which was sufficient to put great difficulties in the way of trade. These enormous fees all went into the pockets of the collector and comptroller of Customs, who became rich while the unfortunate ship-owner was impoverished. This system was abolished by the Imperial act, passed in 1825, which reduced to reasonable proportions the fees charged on the coasting trade.

In 1828 the subject of Customs salaries was again before the Legislature and the chairman of the committee of privileges reported as a result of an inspection of the returns of the Customs of St. John and St. Andrews, that the whole of the duties collected at the port of St. John, under the acts of the Imperial Parliament, had amounted during the year to £15,231 16s. 10½d., from which sum the officers of Customs had retained £4,135, 10s. 9¾d., leaving £11.096 7s. ½d. as the net amount payable into the provincial treasury. At St. Andrews during the year, £6,007, 19s. 2d. had been collected in Customs duties, of which sum £2,382 was

retained for salaries. These amounts, it should be borne in mind, were all in sterling money. It was found by the same report, that the salary of the collector at St. John was £1,500 sterling, or considerably more than twice as much as the salary of the present collector of the port at St. John, the revenue of which now approaches $1,000,000 a year. The controller of the port then received £700 sterling, or more than double the salary of the present surveyor of the port of St. John, who is the second officer in the service. The other salaries were in the same proportion; two surveyors and searchers receiving £400 sterling each; the warehouse keeper £300 sterling, and the indoor officers from £270 to £150. The collector at St. Andrews received £800 sterling, the comptroller £400, and the searcher £300. These salaries were justly considered to be excessive, and would be far too much even at the present day, when the business has so greatly increased.

It was not until the session of 1829 that a reply came from the Imperial authorities to the address of the House of Assembly of 1827. The claim of the House was twofold, that the gross amount of the revenue derived from the Parliamentary duties should be paid into the provincial treasury, and that the salaries paid to the officers of Customs were out of all proportion to the services they rendered. The reply of the British government was a lengthy document, but it can only be regarded as a piece of special pleading. It sought to make out that the act of 1825, under which the produce of the duties raised was to be paid over to the use of the

colony, was subject to the provisions of the act of 1778, which provided that the net revenue only should be for the use of the colonies. But the acts were entirely different in their application, there being no money paid into the Provincial treasury under the act of 1778, the proceeds of the duties being appropriated by the Lieutenant Governor in any way he saw fit. The reply was accompanied by a detailed statement of the charge for salaries heretofore defrayed by fees levied in this Province, and that it was now proposed should be borne out of the duties collected in the Colonies, and also the salaries, compensations, and expenses proposed to be borne by the Crown, or out of the revenue of the United Kingdom, under the new arrangement which was to take effect from the 5th of January, 1829. It appeared from this statement that prior to the year 1826, £9,133 7s. 1d. sterling was paid in fees, and £509 paid by the Crown in the shape of salaries. In 1826 the same amount as that formerly paid in fees, was paid by the Colony, and £1,086 3s. ¾d., paid by the Crown for salaries and incidental charges. It was now proposed that the sum of £6,397 should be paid for salaries out of the Colonial duties, and the sum of £1,636 3s. 3d., paid by the Crown for salaries and incidental charges. In a financial point of view this was a more favorable arrangement for the Province than the one that had previously existed, saving as it did almost £3,000 of the Customs revenues, which were to go into the Provincial exchequer. But as the House of Assembly of New Brunswick, was contending for the principle

that they alone had the right to dispose of the revenues which were collected in the Province, it was unsatisfactory. Therefore it was resolved unanimously by the House, that this settlement of the matter proposed by the British Government could not be accepted. The House said that in unanimously coming to this determination, they did so on the principle that the House of Assembly are the sole constitutional judges of the proper compensation to be afforded public officers when their salaries are to arise from taxation within the Province, and that although the House are well satisfied of the necessity of making proper provisions for officers of the Customs, and will be all times ready to appropriate a reasonable sum for that purpose, when the revenues are left to the disposal of the Legislature, they felt bound to say that the scale proposed was far beyond what the circumstances of the country would permit, and out of all proportion to the allowances made for similar services by the General Assembly. The Council took no part in these remonstances against excessive salaries, so that the battle was fought without their assistance.

No progress was made in respect to the matter of Customs salaries during the year 1831, but it appeared laid before the Legislature that for the year 1829, the Customs duties collected in the Province, amounted to £16,616, sterling from which was deducted for salaries £7,073, leaving a balance of £9,543 to go into the Provincial treasury. Thus it appeared that in that year the salaries of Custom house officials amounted to about 40% of the

whole sum collected by them, a scale of remuneration which would seem very absurd at the present day.

In March 1831 a series of resolutions was moved by Mr. Partlow, in reference to the King's casual revenue, and Customs salaries. They announced the desire of the Legislature to provide for the whole civil list, including the Customs establishment, and asked for returns, showing the salaries which had been annually received by the several Custom house establishments in the Province, for the payment of their officers and clerks, since the Imperial acts for the abolition of fees went into operation. These resolutions were carried and ordered to be laid before the President. At a later day, during the same session, an address was adopted by the House on the subject of the Custom House establishment in this Province, which was ordered to be sent to the Lieutenant Governor, so that it might be forwarded to His Majesty. It recited the dissatisfaction that so uniformly prevailed at the circumstance of such large sums being annually withheld by the officers of Customs, without the consent of the Legislature. It is stated that the Provincial officers, such as the Provincial Treasurer, whose duties were far more arduous, received much smaller salaries than those given to the Customs officials. The principal object of the address, however, was to place before His Majesty a scale of salaries which the House deemed sufficient for the service, and to ask that this scale be adopted. The Assembly offered to make a permanent annual grant

to His Majesty of £4,250, sterling, for the payment of the Customs officers, either in gross or in such other way as His Majesty might direct. This scale of salaries gave the Collector of the port of St. John £700, sterling, a year, which was a larger salary than this official now enjoys; the Comptroller was to receive £400, sterling, a larger salary than the surveyor of the port now has. The whole cost of the St. John Customs establishment was to be brought down to £1,930. The Miramichi Custom House was to be maintained for £450; that of St. Andrews for £990, the Collector there receiving a salary of £400, while the other salaries were reduced in the same proportion, so that the total sum for salaries and incidentals was brought down to £4,250, sterling, equal to £4,903 16s. 10d. currency, or about $20,000 of the money of the present day. This proposal brought a favorable reply, which was addressed from Downing Street, on the 5th of January, 1832, by Lord Howick, who afterwards as Earl Grey, was secretary of state for the colonies.

Lord Howick was a member of the Whig ministry which had brought in the English reform bill, which may be well termed the second charter of English liberty. The old system which had flourished for so many years and which deprived so large a number of the people of their proper share in the government of the country had come to an end. This was fortunate for the people of New Brunswick for it greatly facilitated the work of settlement with the Imperial authorities.

Lord Howick, in his despatch, stated that the Lord Commissioners of His Majesty's Treasury were

willing at once to accede to the proposal of the Legislative Assembly of New Brunswick to make a permanent grant to His Majesty of £4,250, sterling, per annum to the Custom House establishment in New Brunswick. Their Lordships were also of the opinion that the present scale of salaries ought to be reduced, but they were not yet possessed of all the information which they required to enable them to determine on the amount of reduction, either of the number or salaries of the officers, which could be effected without impairing the efficiency of the department. They promised, however, that at an early period, they would revise the Customs establishments in all the ports of the North American Colonies, with a view to fix them on a reasonable and moderate scale. This was a very satisfactory despatch, and although the arrangement was not carried out immediately, yet it became operative in the latter part of the year 1835. An act was passed in March of that year, by the Legislature of New Brunswick which declared that "it is one of the most inherent and unquestionable rights of the General Assembly of this Province, to dispose of the whole amount of all duties, taxes and supplies collected within the same." The act then went on to declare that His Majesty's faithful and loyal subjects of the Assembly of New Brunswick have freely and voluntarily resolved to give a grant to the King's most excellent Majesty, his heirs and successors, towards providing for the Custom House establishment in this Province; that the principal officers of the Customs of this Province are authorized to retain the annual sum of £4,250

sterling, out of the monies arising from the duties which they may collect under the acts of the Imperial Parliament, the surplus to be paid over to the Provincial Treasurer quarterly. Thus was vindicated the principle for which our House of Assembly had so steadily contended, and the right of that body to dispose of the entire revenues collected in the Province in whatever manner they saw fit, was freely admitted by the special confirmation and ratification of the act by order of the King in Council on the 30th of September, 1835.

It is a singular fact that while the House of Assembly contended so strongly for its right to appropriate all the monies collected by the Imperial Custom House officers in this Province, it seems to have ignored or forgotten the still more important question of the right of taxation which was involved in this matter. The contest between the Mother Country and the thirteen colonies was the result of an attempt on the part of the British Government to impose Customs duties on the Colonists, and the contention of the Colonists, which they successfully maintained as the result of a long and bloody war, was that there should be no taxation without representation. This principle was so far admitted by the British Government, that in 1778, an act was passed declaring that from and after its passing "the King and Parliament of Great Britain wil not impose any duty or tax assessment whatever, payable in any of His Majesty's colonies, excepting only such duties as it may be expedient to impose for the regulation of commerce." In spite of this very plain provision it has already been seen that

the Imperial Customs establishment of New Brunswick, and the other North American colonies of Great Britain, continued to collect duties, which, whether they were necessary for the regulation of commerce, or merely for the purpose of raising a revenue, were entirely in opposition to the principle that there should be no taxation without representation.

The indifference of the House of Assembly of New Brunswick in regard to this particular phase of the question, must be ascribed to defects in the political education of the people, who had been so much accustomed to regard the royal prerogative as sacred, and the Imperial Parliament as supreme, that they failed to recognize the fact that the rights of the people of New Brunswick were being seriously interfered with by the Imperial legislation which provided for the maintenance of Customs establishment.

There were indeed many grave abuses and difficulties in connection with the collection of two sets of duties by two sets of officers on the same goods imported into this Province. In general such a condition of things was only made tolerable, by the liberal manner in which the tariff of duties was interpreted by the officials, yet there were sometimes collisions between the Provincial and Imperial officers. An instance of this was presented to the notice of the British Government in 1833, by Messrs. Chandler and Simonds, when they went to England as a deputation on the subject of the grievances of the Province. They stated that, although the revenue laws of the

Province and the Imperial acts specified the manner in which the proceeds of seizures made by the officers of Customs and Provincial officers should be disposed of, collisions had taken place between these officials, and instances had occurred of seizures by the officers of His Majesty's Customs of articles which had been previously seized by the Provincial revenue officers, and condemned and sold by them. The delegates pointed out that unless a remedy was applied to proceedings of this nature, the Provincial revenue laws for the prevention of smuggling, would, so far as they applied to articles which were liable to Parliamentary duties, become entirely nugatory. This matter was brought to the notice of the proper officers by the British Government, and from that time complaints on the subject became less frequent.

It was not, however, until the year 1848 that the whole complicated system, of collecting double duties by two acts of officers, was swept away. The history of the legislation which brought this about and which resulted in England becoming a free trade country, does not properly belong to the narrative which I have in hand. The fall of the Imperial Customs system in the colonies was due, not so much to any attacks that were made upon it from without, as to its own inherent weakness and inefficiency. The year 1846 was a memorable epoch in the commercial history of the United Kingdom, and from that time the old order of things began to pass away. The Imperial Customs establishments in the colonies, were abolished by legislation, which

was passed in 1846, and the officers who had been charged with the duty of collecting the Parliamentary revenue were either pensioned or removed to other positions. The collector of the port of St. John, Mr. H. Bowyer Smith, was at this time placed on a retiring allowance, and the only Imperial officers of that establisment retained here, were the Comptroller of Customs and Navigation Laws and a few other officials, whose duty it was to regulate the shipping interests, which were still regarded as an Imperial concern. A few years later even this system was abolished, and the interests of the shipping were entrusted to Provincial officers, who from that time to the present, have done their duty in a manner not less efficient than their predecessors.

During the session of 1827, Sir Howard Douglas was able to announce to the Legislature the pleasing intelligence, that the bonds for timber licenses which had been taken for some years previous, had all been cancelled. The total of these bonds amounted to many thousands of pounds, and their cancellation at this time, brought a very sensible relief to those who were engaged in the timber trade, who were suffering from the losses which had fallen upon them in consequence of the financial panic in England. The thanks of the House were voted to the Lieut.-Governor for his exertions to bring about this desirable result. The legislation of the session included an act to amend the marriage act, and one to amend the great roads act. The latter defined the route of the Nerepis road, and established it as one of the great roads of communication in the province. The former act took away from the

magistrates the right to celebrate marriages, unless they had been specially authorized and commissioned by the Lieutenant-Governor, and then only in parishes where there was no clergyman of the Church of England residing. A large number of Justices of the Peace were commissioned under this act, for there were then only about twenty clergymen of the Church of England residing in the Province, and more than half of the parishes were without a resident clergyman.

The distress which existed in England largely increased the number of emigrants who came to New Brunswick and a return laid before the Legislature shows that in 1826, 3,145 persons arrived at St. John from Great Britain. Many of these people were in a destitute condition, and some of them were the victims of disease, so that the resources of the county of St. John were severely taxed to provide for them. Many of these emigrants became settlers, and under new conditions, attained a degree of prosperity which they never would have known had they remained in Great Britain. Their descendants still reside in this province, and are exempt from the trials and privations which their fathers endured in making homes for themselves in the wilderness.

A very unpleasant piece of news arrived in the Province in the Spring of 1827, in the announcement that quit rents were to be collected on all the grants which had been issued previously subject to this charge. Some years before the matter of quit rents had come up, but nothing was then done to enforce them, but now it would seem, that the

British Government thought the time had come when they should be collected. Most of the old grants were subject to quit rents, the amount exacted being at the rate of 2s. for each 100 acres. This was not a large sum, being only at the rate of one cent a year for each acre, but the payment of rent was objectionable to the people of the Province, and in many cases, even this small sum would have been a burthen. When the people obtained their grants they regarded the provisions for the payment of quit rents as merely a nominal acknowledgement of the sovereignty of the Crown, and never dreamed that an attempt should be made to collect them. The revival of this impost produced a great deal of discontent, and formed the subject of numerous addresses to His Majesty. The abolition of quit rents was one of the matters intrusted to Messrs. Chandler and Simonds, who were sent as a delegation to England on the subject of grievances, in 1833. Finally the question was settled in 1835 by the passing of a bill in which the sum of £1,200 currency, annually, was granted to His Majesty in commutation and full discharge of quit rents due, or to become due within the province of New Brunswick. This annual appropriation was to be applied by His Majesty towards making and improving the roads and bridges within the Province. This solution of the difficulty was very much like taking money out of one pocket and putting it into the other, for the Province itself got the benefit of the quit rents, and not the King or the British Government.

During the year 1827 difficulties again arose in regard to the Madawaska territory, which was claimed both by Great Britain and the United States. During all these boundary disputes the object of the Americans was to carry their eastern boundary north of the St. John River, so as to cut off connection between New Brunswick and Lower Canada. The erection of the district of Maine into a separate state in 1820, gave a new impulse to American aggressions in that quarter. For some years before, American citizens had been coming into the Madawaska district and frightening the simple minded Acadians who lived there, into acquiescence in their claims. They took possession of lands and built houses under the pretence that this was United States territory, and that they had the authority of the Federal government behind them. The Governor of Maine, Mr. Lincoln, appears to have given countenance to these intruders and voiced the view that his people were right in claiming the Madawaska territory as a part of the United States. The New Brunswick authorities contended with justice, that as they had always exercised jurisdiction over that territory and held possession of it, their possession could not be changed until it had been done by a higher authority. Evidently while the two national governments were endeavoring to bring about a decision with regard to the disputed boundary question, it was highly improper for the Governor of Maine to complicate the situation, by giving his countenance to acts of aggression by the citizens of the United States. In the spring of 1827, a

constable of the county of York, who was executing a writ of replevin, against a settler on the Aroostook, was set upon by a mob of twenty or thirty men and the property he had seized taken from him. In July of the same year John Baker, who lived at Baker's Brook, a tributary of the St. John River, hoisted the American flag on the 4th of July, and proclaimed the place to be American territory. Afterwards he and two of his companions carried a paper through the settlement, which they induced some of the more ignorant people to sign, declaring that the Madawaska territory was under the jurisdiction of the United States, and that they would not obey the laws of New Brunswick. Baker also attempted to stop the courier, who was carrying the mails between Fredericton and Quebec, declaring that he had no right to pass through American territory, but the courier, being a stout fellow, informed Baker that he would have to be a better man than he was, before he would prevent him doing his duty. Baker desisted from this attempt and it was not repeated.

The news of these outrages naturally produced much indignation at the seat of government, especially as it was well understood, that Baker was acting under the direction of the governor of Maine. Evidently it was necessary that Baker should be suppressed, and the only way to do this effectually seemed to be to arrest him. This business was intrusted to Sheriff Miller, whose illegal conduct, in connection with an election in York, has already been referred to. The Lieutenant Governor and the Attorney General, both thought that the arrest

should be made as quietly as possible, while Miller desired to give his proceedings a military aspect, and proposed to take a body of armed men with him. This he claimed was done on the advice of the Council, but if such advice was given, it must have been communicated to the Sheriff privately, for there is no record of it in the books of the Council. The Attorney General learned that Miller had started up river with a barge full of armed men, and after consulting with the Governor, sent a special messenger after him on horseback, to stop him. The message was delivered, but Miller stated that he was acting on the advice of the Council, and showed a disposition to resist the authority of the Governor and the Attorney General. A second messenger had to be sent with a still more peremptory summons, and the sheriff returned and dismissed his armed posse. When he started again he took only two men with him, which the Attorney General thought quite sufficient, and he went on horseback. Before he reached his destination the sheriff had gathered a party of fourteen men, most of whom belonged to the Madawaska settlement. Baker was arrested in his bed, at daylight on the morning of the 24th of September, and two days later he was lodged safely in Fredericton jail, where he remained until February, when he was released on bail. He was tried in May for conspiracy before a York County jury, was found guilty, and was sentenced to two month's imprisonment and to pay a fine of £25. Baker had produced a good impression while in jail, by his conduct, and his sentence was made light in

consequence of his having been incarcerated for nearly six months before his trial. His case attracted the attention of the Federal authorities and naturally enough it excited much interest in Maine. An agent was sent by the American Government to inquire into the circumstances connected with Baker's arrest, and to obtain copies of the papers connected with his trial and conviction. The people of Maine showed much more zeal for the maintenance of the American claim than the government of the United States, indeed the latter was seriously embarassed by the truculent spirit displayed by the state authorities. Sir Howard Douglas acted with great discretion at this exciting period, and it was largely owing to his good sense that an armed conflict was prevented. It was agreed by the two national governments that the boundary question should be submitted to the arbitration of the King of the Netherlands. This was done in April, 1830, and on the following January he rendered his decision, which was a compromise, splitting the difference between the two claims. The boundary as delineated by him, was the same as the present international boundary up to the St. Francis River, but he gave the Americans a larger strip of territory north of the St. John, than they now possess. The government of the United States refused to accept this boundary, and the conflict went on over this disputed question for another thirteen years. In the end the Americans got a much less favourable boundary than that awarded them by the King of the Netherlands.

In the meantime the Province was making substantial progress in many directions. Greater attention was being paid to the cultivation of the soil. Agricultural and immigrant aid societies were doing good work, not only in settling immigrants on the land, but in assisting them and encouraging those who had previously become settlers. Improved stock was being imported, and cattle shows, at which prizes were given for the best specimens of farm stock, were introduced. Commerce was beginning to recover from the effects of the panic, and the merchants of St. John obtained a better means of communicating with their customers in Nova Scotia, by the placing a steam packet on the route between St. John and Annapolis. The roads of the country were also being improved, owing to the well directed efforts of the Lieutenant-Governor, who had early recognized the fact that much money was being wasted on this service in consequence of the lack of concentrated effort.



CHAPTER XXVI.

THERE was a general election in the summer of 1827, so that the House of Assembly which met on the 14th of February, 1828, was a new one. Some members who afterwards occupied a leading position in the public affairs of the Province, made their appearance in this House, amongst others, Edward B. Chandler, who came to represent the county of Westmorland; John R. Partlow, a representative of the county of St. John; and John W. Weldon who represented the county of Kent. Richard Simonds, one of the representatives from Northumberland, was elected speaker. The speech of the Lieutenant Governor was in a hopeful strain, and dwelt particularly on the new measures that had been passed by the Imperial parliament, for regulating Colonial trade. He congratulated the Province on the greater attention that was being given to agriculture, and also on the improvements on the great roads. There were several contested elections, which came before the House, but only one that demanded any particular notice. This was the petition of Patrick Clinch and James Brown, complaining of an undue election in the county of Charlotte. Messrs. Clinch and Brown were imprudent enough to write letters to several members of the House, in reference to the contested election in

Charlotte, in which they said, that they thought they could discover a disposition in some of the honorable members to throw every difficulty in their way in contesting the case. They said that this was due to the fact that their own seats and those of their friends, might be ultimately affected by the decision of the House. They also charged the sheriff with misconduct at the election. The House regarded this as a high contempt and breach of their privileges and ordered the arrest of Messrs. Brown and Clinch by the sergeant at arms. On being brought before the House they admitted that they had written the letters complained of, and were immediately committed to the common gaol in the county of York. On the following day they petitioned for their release and expressed their regret for having written the letters. Their release followed immediately, and Mr. Clinch, a few days later was seated as member for Charlotte in the place of Joseph N. Clarke, whom the sheriff had returned as elected. There was no doubt of the truth of the statements contained in the letters, but the whole transaction shows the high view which the members of the House of Assembly took of their privileges and their determination to maintain them.

At this session the Council sent down a resolution to the House of Assembly, declaring it to be desirable that a Provincial penitentiary should be erected. This was concurred in by the House and a committee appointed to obtain information and look up a suitable site for the proposed prison. This movement, however, led to nothing substantial, and it was not until the session

of 1841, that legislation was had for the establishment of a Provincial penitentiary. In the meantime the County of St. John, finding its criminals too numerous to be accommodated in the common gaol, erected a house of correction on its own account, and this building in 1841 was taken over and converted into a Provincial penitentiary.

Among the acts passed during the session, was one for granting a bounty on flour, manufactured at the steam mills in Portland. The act for regulating elections of representatives was amended by requiring the candidate to be possessed of real estate to the value of two hundred pounds in the county for which he was elected, over and above all encumbrances and to have had his title registered six months before the election. Another act provided for the trial of controverted elections by means of a committee of members to be chosen by a complicated ballot system. This was a slight improvement on the former practice, but these committees of the House, no matter how chosen, were never quite free from partizan feelings, and it is to be feared that in some cases these feelings prevailed over the claims of justice.

As the disputed boundary question with the United States was to be decided by the King of the Netherlands, the presence of Sir Howard Douglas was required in England to assist in preparing the British case. The Governor desired to dispose of the legislative business of the year before taking his departure from the Province, so he called the Legislature together on the 19th of

December, 1828. The House sat from that date until the 10th of February, 1829. The speech of the Governor at the opening of the session was very lengthy and dealt with a variety of subjects. Great progress had been made in public works, and the roads of the Province for the first time were beginning to be fit for travel with wheeled carriages. He was able to inform the legislature that arrangements had been made for the British government providing arms for the militia without any cost to the Province. He recommended the attention of the legislature to measures for the improvement of navigation, by the building of a greater number of light houses. A light house had been erected on Partridge Island at the entrance of St. John harbor very soon after the founding of the Province, and one or two others had since been built, but the lighting of the coast was very imperfectly done, a condition of affairs which was largely due to lack of means. The Governor closed his address by a highly eulogistic description of the Province and its resources.

As Richard Simonds, the speaker of the House of Assembly, had been appointed provincial treasurer he resigned his seat in the House, and Charles Simonds, one of the members for St. John county, was elected in his place. At this session the Council made a highly important discovery, they found that the practice which they had adopted from the beginning, of sending messages to the House of Assembly by a member of the Council was contrary to Parliamentary usage and colonial practice, and they informed the House that for the

future, all bills and messages from the Council, would be carried by a master in chancery. The House responded to this message in characteristic fashion. Previous to that time it had been the custom for bills to be taken up to the Council by two members of the House of Assembly. Now it was resolved that, for the future only one member should be sent up with a bill to the Council. This seems to have aroused the resentment of the Council and they soon found a grievance against the House in the fact that the speaker received their messenger standing but covered. The council thought that the speaker should receive the messenger uncovered. This matter was referred to a committee of the House, and it was decided that the speaker should take off his hat after the messenger of the Council had made his third bow. It was fortunate that the House of Assembly was willing to yield in this matter, for the Council might otherwise have made it a pretext for putting a stop to all legislation.

In June, 1827, a new system of disposing of Crown lands at auction had been introduced by the surveyor general, acting for the Imperial government, its professed object being to place settlers on the land as rapidly as possible. Theoretically it appeared reasonable enough, but its practical effect was to give away the Crown lands of the Province to speculators for nothing. Under this system it appeared that in a year and a half, a hundred and eighty-seven thousand three hundred and thirty-six acres had been sold, for which there had been received in payment the sum of £965 16s. 4d. From this sum had to be

deducted £503 18s. 8d., for incidental expenses, leaving the sum of £461 17s. 7d., as the net amount of the purchase money. This sum was not sufficient to pay the expenses of the survey, so that the land went for absolutely nothing. Both Houses joined in an address to the King against the continuance of this wasteful and improvident system of disposing of the Crown lands of the Province. No answer seems to have been received to this address, but the question was solved at a later day by the transfer of the Crown lands to the government of the Province, to which they properly belonged.

The House and the Council joined in another address to the King in a matter which well illustrates the bigotry of that age. According to an act of the British parliament, passed in the reign of George III., foreigners who came into the Province for the purpose of becoming settlers, before being admitted to take the oath of allegiance, were required to take the sacrament of the Lord's Supper. The repeal of this act was now asked for. At the following session of the legislature a despatch was received from the Secretary of state for the colonies, announcing that the request of the legislature would be complied with, and this was done the same year by the act 10th George IV. Cap. 7, which was made applicable to this Province by an act of the Legislature in 1830.

In his speech, the Governor had referred to the subject of education and a committee was appointed by the House of Assembly to report on this matter. The result of its inquiries was to show that the

grammar schools were by no means doing the work that was expected of them, and that the Madras schools were a failure in the rural districts. The only schools that were really progressing in a satisfactory manner were the parish schools. No subject attracted more attention in the legislature for many years than that of education, and no province has ever been more liberal in its grants for that object, but until the introduction of free schools in 1870, and the adoption of a general system of assessment, the schools of the Province were never on a satisfactory footing.

At the close of the session the House of Assembly presented an address to Sir Howard Douglas, expressing the high sense they entertained "of his wise, paternal, energetic and impartial administration" and acknowledging with grateful feeling the deep and lively interest he had taken in the affairs of the province. This address was well deserved for Sir Howard Douglas was probably the best Governor New Brunswick ever had, under the old order of things. Being a man of ability and not a mere place-hunter, he was able to enter heartily into the spirit of the life of the province and to make himself acceptable to all classes. The people of New Brunswick parted from him with regret, but at that time it was fully expected he would return when the work he had to do in Europe was completed. This expectation was disappointed for Sir Howard Douglas in April, 1831, resigned his position as Governor of New Brunswick. The immediate cause of his resignation was one highly honorable to his character. The government of

Great Britain proposed a new arrangement of the timber duties which would abolish the protection afforded to colonial timber against timber from the Baltic ports. Sir Howard considered such a measure unjust, and entreated Lord Goderich, the colonial secretary, not to pass it, declaring that the change would ruin New Brunswick and be very injurious to the other colonies. As his representations produced no effect, he felt that it was his duty to appeal from the government to the public by writing a pamphlet on the subject, and, as the publication of such a pamphlet, which was virtually an attack on the government, was incompatible with his holding his position as Lieutenant Governor of this province, he handed in his resignation. This was a notable example of public spirit and adherence to principle, for Sir Howard Douglas was by no means wealthy, and the loss of the income of his position was a very serious matter to him. Sir Howard Douglas was one of the first men in England who seems to have fully appreciated the value of the colonies. He believed that they would become in time an important support to the empire, and his view of their future has been amply realized. He was then and always was for "fair trade," a phrase that has become much in vogue in these days. Sir Howard's pamphlet produced a strong impression on the public mind, and the bill for changing the timber duties was rejected by the House of Commons. The victory for the provinces, whose interests he had so much at heart, had been won largely by his efforts, but in the meantime he had ceased to be Governor of New Brunswick and to be

in a position to assist it by his valuable advice and his untiring efforts.

The Hon. William Black, a member of the Council, succeeded to the Presidency of the Province on the departure of Sir Howard Douglas, and continued to fill that position for about two years, until the arrival of Sir Archibald Campbell in the autumn of 1831. In 1830 the Legislature met on the 12th of January and it was prorogued on the 8th of March. The only matter of importance referred to in the President's speech is the opening of King's College, which began its work under its new charter in 1829. An act had been passed at the previous session granting £1,100 per annum for the endowment of the College on condition that His Majesty would grant £1,000 sterling to the College, which he had promised to do. This liberal grant from His Majesty did not come out of his own pocket nor out of the British treasury, but it was a part of the sum obtained from the Crown lands of the Province, so that the entire grant to the College was from funds that properly should have belonged to the Province. In a financial sense the College had been placed on a satisfactory footing, and if its charter had been more liberal its success would have been assured.

The most important bill of the session was that for the relief of His Majesty's Roman Catholic subjects. The Imperial Parliament in 1829, had passed the act generally known as "Catholic emancipation," removing those disabilities which had prevented Roman Catholics from sitting in the House of Commons, or from holding

civil or military offices. This measure had been carried by the Government of the Duke of Wellington, who had violently opposed all concessions to the Roman Catholics until it was felt that if these concessions were not granted, Ireland would rise in rebellion. The same act would have been passed more than thirty years before by William Pitt, but for the bigotry of George III., who set up the pretext that to consent to it would be a violation of his coronation oath. While the Duke of York was alive, the same influence prevailed with George IV., but the Duke of York being dead, the King had to yield, notwithstanding the remonstrances of Lord Eldon, who solemnly declared that if this act were passed the sun of Britain's glory would set forever. The Provincial act for the relief of Roman Catholics merely made the Imperial act applicable to New Brunswick. It was brought to the attention of the Legislature by a despatch from Sir George Murray, who commended it to their favorable consideration. It passed without any opposition in the House of Assembly, but in the Council, the chief justice opposed it and placed on the journals of that body a long protest against its passage. Chief Justice Saunders was a Tory of the old school, on whose dull mind the progress of the world made no impression. From the day that he became a member of the Council until the end of his long life he opposed all reforms until he came to be looked upon with contempt, even by those who had formerly been with him on the side of obstruction.

It has already been stated that under the original system, which was introduced at the foundation of the province, the only clergymen authorized to solemnize marriages were those of the Church of England; ministers of the Kirk of Scotland, Quakers, and clergymen of the Roman Catholic Church, Methodists, Baptists, Congregationalists and all Presbyterians, except those connected with the Church of Scotland were excluded from the operation of this marriage law. The agitation for a change in this system commenced at an early period, and in 1821 a bill passed the House of Assembly authorizing all ministers of the Gospel to solemnize marriage. The vote on this bill was a close one, thirteen being in favor of it and eleven against it. Among those who opposed this just measure, were Hugh Johnston, Harry Peters and Ward Chipman, Jr., of St. John, and John Allen of the County of York, while John M. Wilmot, Charles Simonds and Andrew S. Ritchie, of St. John, and Peter Fraser, John Dow and Stair Agnew, of the County of York, were on the side of reform. The two members for Kings county of that day, John C. Vail and David B. Wetmore, were against the bill, while of the Queens County members, one, William Peters, was for it, and the other, Samuel Scovil, was against it. This bill was defeated in the Council, a fate that befel many subsequent bills of the same kind in that body. For several years the House of Assembly continued to pass the dissenters marriage bill, and the Council as steadily to reject it. The opposition to this measure in the House gradually died away, until in 1830, there was no division taken on its

passage, but that made no difference in regard to the attitude of the Council towards it, and the bill was rejected, as it had been so many times before. In 1831 a dissenters' marriage bill was again passed by the new House of Assembly, which met that year. and when a committee was appointed to search the journals of the Council to learn what had become of their bill they found that the Council had summarily rejected it without a division. The House of Assembly concluded that nothing would serve to bring about the reform asked for, but to petition the King, and accordingly in 1831, a petition was prepared in which the grievance with regard to dissenting Protestant clergymen, was duly set forth. It was stated that for several years in succession the House of Assembly had passed a bill to extend the privilege of celebrating marriages to dissenting clergymen, but that for reasons unknown to the House, such bills had not been concurred in by the other branch of the Legislature. The petitioners, who described themselves as "Your Majesty's Faithful Commons," asked that the King "would be pleased graciously to give instructions to the administrator of the Government, to recommend the Legislature to pass such bill as he may deem proper, to obtain your Majesty's royal sanction for the purpose of extending the privilege of celebrating and solemnizing marriages, to the regularly ordained and settled clergy of dissenting congregations in Your Majesty's Province of New Brunswick." At the next meeting of the Legislature, in 1832. the various dissenting religious bodies showed great activity in presenting petitions

in favor of the passing of the dissenters' marriage bill. These petitions came from every part of the Province, and very largely from the ministers and adherents of the Wesleyan Methodist Society. The bill was passed by the House on the 10th of February apparently without any opposition, and went to the Council, where it passed with a suspending clause, being reserved for His Majesty's approval. It was supposed that this bill would settle the dissenters' marriage question, and the Lieutenant-Governor, Sir Archibald Campbell, seems to have shared in this belief, for in proroguing the Legislature he said:

"I am particularly gratified to find that the new marriage act, which has just passed into a law, is calculated to give a high degree of satisfaction to a large portion of His Majesty's loyal subjects in this colony."

Nothing more was heard of the act, however, until the session of 1834, when a despatch was received from His Majesty's Secretary of State for the Colonies, dated the 1st of January of that year, in which it was announced that His Majesty had been advised to withhold his assent from the bill, on the ground that the act was confined in its operation to four denominations of Christians, the Wesleyan Methodists, the Baptists, Presbyterian Seceders from the Kirk of Scotland, and Independents, and also because, before obtaining a license from the Governor, the minister who desired to solemnize such marriages must produce a certificate or letters of ordination, which must be derived from some British convention, synod,

conference or association. In other words, the act was disallowed because it was not liberal enough, and thus two years of time were lost, no doubt in consequence of the act having originally been drawn in a restricted form to enable it to pass the Council. Thus the malign influence of that antiquated and illiberal body was the means of postponing the operation of the dissenters' marriage act until the year 1834, when on the 22nd of March, a bill which was in the terms suggested by the Colonial Secretary, was passed, and the dissenters' marriage question settled forever on an equitable basis.

At this session of the Legislature, the province finally got rid of one of the features of the English criminal law which interfered with the course of justice. The criminal laws of the province were those of England with all their cruelties and absurdities, and criminal law reform in New Brunswick was dependent on the action of the Imperial Parliament. Among the absurdities of the law was that with reference to benefit of clergy. This was founded on an ancient claim by the clergy, of exemption from the penalties imposed by law for certain crimes. It had its origin in the claim made by the ecclesiastics after the Norman Conquest, for the entire exemption of their order from the jurisdiction of the common law courts. Benefit of clergy was at first limited to the regular clergy, but was at length extended to all who could read. Laymen, however, were not allowed to take the benefit of clergy more than once, and upon being admitted to the privilege escaped the death penalty,

being branded in the hand and released. In the reign of Queen Anne, benefit of clergy was granted to all persons without requiring them to be able to read. The records of the supreme court of New Brunswick show that benefit of clergy was frequently claimed in capital offences, and that the claim was always allowed if the person who applied for it had not enjoyed it before. It was abolished by the Imperial statute Seventh and Eighth George IV., and the Legislature of New Brunswick by an act passed in 1829, which was amended and perfected by another act passed in 1830, also abolished benefit of clergy and prescribed other punishments in its place.

At this session of the legislature the revenue bill was rejected by the Council, and when the legislature was prorogued on the 8th of March, it was left without any means of raising a revenue. The journals of the Council do not afford any evidence of the cause which led to the rejection of this necessary measure, but a paragraph in the Royal Gazette leads to the inference that it was due to the objections of the Council to a clause in the bill authorizing the provincial revenue officers to enter private houses in search of smuggled goods. Whatever may have been the cause, the difficulty was quickly remedied by the President calling the legislature together three days after the prorogation. The Legislature sat on this occasion only four days and passed a revenue bill which was practically the same as that which the Council had rejected. The extraordinary disregard of the public interests which was shown by the Council in this matter,

proves that they were a very unfit body to legislate for the people of New Brunswick. So far as can be gathered they made no attempt whatever to have the bill amended by the House, and made no statement of their objections to it so that the House might have had the opportunity of considering them. They simply threw it out summarily, without any regard for the effect that its rejection would have on the interests of the people of the Province.

The death of King George IV. took place on the 26th of June, 1830, and the event was known in New Brunswick at the beginning of August. This, under the old law, required the dissolution of the House of Assembly, although the existing House had only sat three sessions. The election which took place immediately did not make many important changes in the representation of the several counties. Among the new men were James Brown and George S. Hill for the County of Charlotte, both of whom made a considerable figure in the political history of the Province. William End, a clever Irishman, who also became quite celebrated in public life, was returned to represent the county of Gloucester. Another man who also became prominent was William B. Kinnear, who appeared for the first time as a representative for the city of St. John. William B. Kinnear, was a man of good ability and became Solicitor General in 1846. He was the first lawyer not a member of the Church of England, who attained to the position of one of the legal advisers of the Crown. None of the prominent men of the former House were

defeated, and in Charles Simonds, John R. Partelow, Edward B. Chandler, and George S. Hill, the House of Assembly possessed four reformers who were full of zeal for the public interests and who did splendid service in the work of improving the constitution of the province so as to bring it in harmony with the needs of the people. If some of these men, viewed at this distance of time, appear to be rather conservative in their opinions, it must be remembered that when they were in public life the most effective canvass that could be used against a man was to say that he was an innovator. All changes, no matter how necessary, were looked upon as almost treasonable, by those who were intrenched in high office and enjoyed enormous salaries, drawn from the people of the Province.

Among the matters which were beginning to engage the attention of the people at this time was the question of temperance. In the early history of the Province the amount of liquor that was consumed by the people was enormous and a certain quantity of Jamaica rum every day seemed to be a necessary part of every man's diet. No work apparently could be carried on in the Province without the use of rum. Large quantities of rum were taken into the woods for the use of the men who cut and hewed the timber, which was the staple export of the Provinces. Every house or barn raising, every event of any kind which brought people together, was a pretext for indulging in the consumption of large quantities of spirits. The effect of this on the health of the people, as well as their morals, was very detrimental.

Crime was much more common in those days than it is at present. Business was seriously interfered with by the universal thirst for intoxicating liquors, and thoughtful people began to see that a reform in this respect was greatly needed. Father Matthew had not then begun his great work as a temperance lecturer, but there were others in the field who were equally zealous if not equally eloquent. The first temperance society was formed in St. John in September, 1830, and very soon afterwards a Provincial temperance society was formed in Fredericton. These were the beginnings of a great movement which culminated in the prohibitory liquor law in 1855. This law was a failure, but the temperance sentiment which brought it into being effected a successful reform in the manners of the people, so that, today, New Brunswick is as free from the evils that are due to an excessive use of intoxicating liquors, as any country in the world.

The Legislature met on the 7th of February, 1831, and as Sir Howard Douglas was still absent from the Province, the opening speech was delivered by President Black. He called the attention of the Legislature to the necessity for improving the roads and for the erection of a public penitentiary. The legislation of the session was not very important, the principal bill passed being one relating to the criminal code of England, which had been passed a year or two before. By this act a vast number of ancient statutes, from the time of Edward I. downward were repealed. Better provision was made for the trial of felonies and the

due punishment of persons convicted of them. Another act was passed for the purpose of consolidating and amending the laws relating to larceny and other offences connected therewith. There were also acts for amending the, laws relating to malicious injuries to property and of offences against the person. Another act of this session effected a much needed reform by dividing the county of York into two counties, the new county thus created being named Carleton. This act was reserved for His Majesty's royal approbation which was received on the 30th of May, 1832.

At this session of the Legislature the question of the casual and territorial revenue of the Province again came before the House. On motion of Mr. Partelow, an address was presented to the President, asking him to lay before the House a detailed account showing the amount paid into the casual revenues from 1st of January, 1824, to the 1st of January, 1831; and also a statement of the expenditure from the casual revenue for the same period. President Black, by the advice of the Council, declined to comply with this request, but said that he would transmit it for the consideration of His Majesty's ministers. When this answer was received by the House, it immediately took action. On motion of Mr. Partelow, a resolution was passed for an address to His Majesty, and Messrs. Partelow, Simonds and Chandler were appointed a committee to prepare it. It was laid before the House and agreed to by a vote of 14 to 8, the only persons who opposed it being the friends and relations of the members of the family compact. This address

stated that large sums were taken from the people of the Province for licenses to cut timber on Crown lands, that the Commissioner of Crown lands, who was under no control in the Province, was invested with greater power with regard to the imposition of tonnage money and the exaction of fees than was compatible with a free Government. It expressed the opinion that if the Crown lands were under the control of the Province, while the oppressions complained of would be removed the revenues would be more productive. It stated that the Assembly could not but view with just alarm that the day might possibly come when by a single mandate from the Crown land office, exactions of such magnitude might be made, as literally to stop the export trade of the country. The address also stated that the object contemplated was to relieve His Majesty's government permanently of the burthen of the whole civil list of the Province, for which purpose the revenues from the Crown lands should be placed under the control of the legislature.

The answer to this address did not come until the following year, when Sir Archibald Campbell was Lieutenant Governor. A few days after the opening of the Legislature in 1832, the Lieutenant Governor laid before the House a despatch which he had received from Lord Goderich. In regard to supplying information as to the amount of the expenditure of the casual revenue, Lord Goderich stated that he had not received any command from His Majesty on the subject, and that as the resolutions of the Assembly were grounded

altogether on erroneous information, it was not in his power to authorize the Lieutenant Governor to comply with the request of the House. The despatches which passed between Sir Archibald Campbell and Lord Goderich at this time show that the latter was the real obstacle to the granting of the request of the House of Assembly to place the casual and territorial revenues under the control of the Legislature. Lord Goderich was a Tory who had got by accident into a liberal government, and who is best known to readers of English history as "Goody Goderich," a nick-name which he received in consequence of his failure to keep his administration together after the death of Mr. Canning.

The curt reply of Lord Goderich did not prevent the House of Assembly from again dealing with this important matter. A few days after it had been received a resolution was passed asking the Governor to lay before the House an account of the money received from the casual and territorial revenue during the year 1830, and also a statement of the amount of the incomes of all officers in the civil departments of the province. This was carried by a vote of 18 to 8, there being at that period in the House an element unfriendly to the true interests of the province, which was content to let the crown land revenues remain in the hands of the Imperial authorities. In reply to this address Sir Archibald Campbell said that with Lord Goderich's despatch before them, he was unable to comply with the request of the house. The House of Assembly was not to be so turned aside from its

determination to redress the grievances of the province. It returned to the subject and resolved that it was reasonable and proper that His Majesty should be relieved from the payment of the civil list of the province, and therefore that it was necessary that information should be obtained as to the amount of the crown revenues and the annual charges thereon. Again His Excellency was asked to furnish the House with a statement of the receipts and expenditure of the casual and territorial revenue for the year 1831. Strange to say Sir Archibald Campbell complied with this second request and said that the documents should be immediately laid before the House. When this was done it appeared that the crown land receipts of the province for the year 1831 amounted to £14,913 18s. 5½d., out of which was taken £1,750 for the salary of the Surveyor-General, £909 for his clerk, £2,750 1s. for the expenses of preparing and issuing patents for lands sold and for timber licenses, £1,932 10s. 2d. for survey money, and £150 for the annuity of Mr. Lockwood. The rest of the revenue went to defray the salary of the Commander-in-Chief, the Chief Justice, three assistant judges, the Attorney General, the Secretary and Clerk of the Council, Immigration Agent, the Archdeacon, the Presbyterian minister of St. John, the donation to King's College, and the donation to the Indians.

A few days later, on motion of Mr. Simonds, it was resolved that, in the opinion of the House, a proposition should immediately be made to His Majesty's Government, that upon the condition that all the Crown revenues, levied and collected in

this Province, which might arise from the sale of Crown lands therein be placed under the control and management of the Provincial Legislature, this House will then make proper provision for the whole civil list in the Province; and that a committee be appointed to prepare a petition to His Majesty upon the subject of the Crown revenues and civil list of the Province.

The address, which was the result of this resolution, stated the grounds on which the Province claimed the right to control its Crown land revenues and proposed to relieve His Majesty from the payment of the civil list and all other necessary expenses for the Government of the Province, on condition that the Crown land revenues should be placed under the control of the Provincial Legislature. Numerous reasons were given why this request should be complied with. A committee was appointed to wait upon the Lieutenant Governor and ask him to transmit this address to His Majesty. Sir Archibald Campbell replied that he would do so, but he would consider it his imperative duty to accompany it with such explanations as he might deem necessary and particularly to rebut the charges made against the public departments. Thus the Lieutenant Governor assumed at attitude of direct hostility to the House of Assembly in regard to this highly important matter.

The Crown land difficulty was not lost sight of during the session of 1833. Early in that session, on motion of Mr. Partelow, a resolution was carried that an humble address be presented to His

Excellency, praying that he would cause to be laid before the House, at as early a date as possible, a detailed account, showing the amount of the crown revenues from the 1st of January, 1829, to the 1st of January, 1833, particularizing the amount received each year; also a statement of the salaries of all the public officers paid from the crown revenues. To this the Lieutenant-Governor replied, expressing his regret that he did not consider himself to have authority to furnish accounts embracing a period so long elapsed, but that he would furnish the House of Assembly with returns of the receipts and expenditures for the year 1832, as he had done for the year 1831. A day or two later, a despatch from Lord Goderich was laid before the House of Assembly by the Lieuteuant-Governor, in which he acknowledged the receipt of their despatch, proposing to assume the expenses of the civil list of the Province on the relinquishment by the Crown of the territorial revenues. The reply to this was, that his Majesty did not consider it necessary at present to call upon the House for a grant of the nature proposed, as he did not anticipate such a falling off in the revenue at his disposal as the House appeared to have apprehended. This was a sarcastic way of informing the House of Assembly that no change was to be made in the management of the casual and territorial revenues of the Province.

Sir Archibald Campbell, at a later day during this session, laid before the House an account of the casual and territorial revenue for 1832. From this account it appeared that there was a

balance on hand in favor of the revenue, on the 1st of January, 1832, amounting to £4,617 12s. 8d. and that the receipts for the year brought up the total to £20,421 6s. 8d. against which warrants had been drawn for £11,764 6s. 8d. leaving a balance of £8,657 5s. 10½d. at the end of the year. This account was referred to a committee, who called attention to "the tremendous expenses attendant upon the Crown land department, the enormous salary of the Commissioner and the large amount swallowed up in the collection and protection of the revenue." They expressed the opinion that under proper management an immense saving could be effected. A series of resolutions were passed by the House, in which the opinion was expressed that the powers exercised by the commissioner of Crown lands and forests were far greater than ought to be possessed by any subject, and these powers had been too frequently used in a manner that was exceedingly detrimental to the general interests of the Province, as well as to the invasion of private rights. It was stated that the abuse of these powers had disturbed the tranquility which every subject ought to enjoy, that the granting of extensive mill reserves to certain individuals had been highly injurious to the commercial prosperity of the province by preventing fair and honorable competition and the introduction of capital; that the want of control by the legislature over the commissioner of Crown lands, and the refusal of the Governor to furnish the Assembly with all the information asked for, gave just reason to believe that great abuses existed

in the Crown land department; that the majority of the existing executive council had not the confidence of the country as the first named on the list held the situation of commissioner of Crown lands and forests, and would succeed to the administration of the government of the Province in the event of the death or absence of the Lieutenant Governor, while the persons second and third on the list of executive councillors held public positions which were inconsistent with the administration of the government.

End of Volume I.



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